

Title 15ENVIRONMENTChapters:

- 15.02 Definitions
- 15.04 Environmental Policy
- 15.08 Shoreline Management
- 15.12 Flood Damage Prevention
- 15.16 Noise Control
- 15.20 Environmentally Sensitive Areas Protection
- 15.24 Wetlands Protection
- 15.28 Clearing, Grading, Filling and Drainage Regulations

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Chapter 15.02

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DEFINITIONSSections:15.02.010 Definitions

15.02.010 - Definitions. These definitions shall apply to Chapters 15.20, 15.24 and 15.28, additional definitions are located in individual chapters.

A. Best Available Science. That scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

B. Best Management Practices means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
2. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands;
3. Protect trees and vegetation designated to be retained during and following site construction; and
4. Provide standards for proper use of chemical herbicides within critical areas.

C. Critical Habitat means habitat necessary for the survival of endangered, threatened, rare, sensitive, or monitor species as identified under the Endangered Species Act.

D. Development means any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the City that binds land to specific patterns of use, including zoning changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

1. Interior building improvements.
2. Exterior structure maintenance activities, including painting and roofing.

3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding.

4. Maintenance of the following existing facilities that does not expand the affected areas: individual utility service connections; and individual cemetery plots in established and approved cemeteries.

E. Engineer means a professional civil engineer, licensed by and in good standing in the State of Washington.

F. Erosion means the wearing away of the land or ground surface by the action of wind, water, ice, gravity, or any combination thereof.

G. Exotic means any species of plant or animal that are not native to the area.

H. Frequently flooded areas means lands in the floodplain subject to a one percent or greater chance of flooding in any given year (the 100-year storm flood). These areas include but are not limited to streams, rivers, lakes, coastal areas, wetlands, and the like.

I. Historic Condition means the condition of the land, including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by human activity.

J. Hydraulic project approval (HPA) means a permit issued by the state Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

K. Indigenous means any species of plant or animal native to an area. Not introduced.

L. Infiltration means the downward entry of water into the immediate surface of soil.

M. Joint Aquatic Resource Permits Application (JARPA)" means a single application form that may be used to apply for hydraulic project approvals, shoreline management permits, Department of Natural Resources use authorization, and Army Corps of Engineers permits.

N. Land-disturbing activity means any use of the land that results in:

1. Change in the natural cover or topography that exposes soils or

2. May cause or contribute to erosion or sedimentation.

This does not include nondestructive vegetation trimming.

O. Marine bluffs means coastal features that resulted from wave erosion undercutting uplands located adjacent to the shoreline, creating vertical cliffs that are an important source of sediment for coastal drift processes and/or the landforms created by these processes.

P. Native means any species of plants or animals that are indigenous to the area.

Q. Nondestructive vegetation trimming means the trimming, or pruning of trees, shrubs, or plants, that does not harm the continued life and health of the plant;

R. Priority Habitats means habitat types or elements with unique or significant value to one or more species as classified by the Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant species, a described successional stage, or a specific structural element.(WAC 173-26-020(34).

S. Puget Sound means all salt waters of the State of Washington inside the international boundary line between the State of Washington and the Province of British Columbia, lying east of one hundred twenty-three degrees, twenty-four minutes west longitude and includes the Strait of Juan de Fuca.

T. Qualified professional means a person with experience and training in the applicable critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field and two years of related professional work experience.

1. A qualified professional for habitats or wetlands must have a degree in biology, marine biology, wetland biology, habitat ecology.

2. A qualified professional for a geological hazard must be a professional civil engineer or geologist, licensed in the State of Washington.

3. A qualified professional for tree maintenance and tree pruning must be an arborist certified by the International Society of Arboriculture.

U. Topping or tree topping means the indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role and is harmful to the life and health of the plant.

V. Viewshed enhancement means the removal or thinning of trees or vegetation to enhance a view when proposed in ravine and marine bluff buffers so long as such alterations will not:

1. Increase geological hazards such as erosion potential, landslide potential, or seismic hazard potential;
2. Adversely affect significant fish and wildlife habitat areas;
3. Through thinning, remove more than 30% of the live branches of a tree;
4. Include felling, topping, or removal of trees in critical areas.

Viewshed enhancement does not include nondestructive trimming of vegetation as defined in this Title. (Ord. 3179 §2, 12/17/2004)

## Chapter 15.04

### ENVIRONMENTAL POLICY

#### Sections:

- 15.04.010 State Environmental Policy Act Adopted.
- 15.04.020 SEPA Rules Adopted.
- 15.04.030 General Requirements.
- 15.04.035 Integrated Project Review.
- 15.04.040 Threshold Determinations.
- 15.04.045 Timing of Threshold Determinations.
- 15.04.050 Environmental Impact Statement (EIS).
- 15.04.060 Commenting.
- 15.04.070 Using Existing Environmental Documents.
- 15.04.080 SEPA and Agency Decisions.
- 15.04.090 Definitions.
- 15.04.100 Categorical Exemptions.
- 15.04.110 Agency Compliance.
- 15.04.120 Forms.
- 15.04.130 Additional Definitions.
- 15.04.140 Environmentally Sensitive Areas.
- 15.04.150 Lead Agency Determination and Responsibilities.
- 15.04.160 Use of Exemptions.
- 15.04.170 Use of Environmental Checklist.
- 15.04.180 Use of Mitigated DNS.
- 15.04.190 Additional Timing Considerations.
- 15.04.200 Preparation of EIS.
- 15.04.210 Additional Elements to be Covered in an EIS.
- 15.04.220 Designation of Official to Perform Consulted Agency Responsibilities for the City.
- 15.04.230 Designation of Responsible Official.
- 15.04.240 SEPA Public Information.
- 15.04.250 Fees.
- 15.04.260 Authority to Deny or Condition Action to Mitigate or Prevent Adverse Environmental Impact.
- 15.04.270 Public Notice
- 15.04.280 Appeals.

15.04.010  
15.04.035

15.04.010 State Environmental Policy Act Adopted. The City adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020. (Ord. 2312 §1, 10/1/84; Ord. 1886 §1, 7/15/76.)

15.04.020 SEPA Rules Adopted. The City adopts by reference the sections or subsections of Chapter 197-11 of the Washington Administrative Code (the "SEPA Rules" adopted by the State Council on Environmental Policy) that are specifically identified herein. (Ord. 2312 §1, 10/1/84; Ord. 1980 §1, 7/29/78; Ord. 1886 §2, 7/15/76.)

15.04.030 General Requirements. This part contains the basic requirements that apply to the SEPA process. The City adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference:

WAC 197-11 -040 Definitions

-050 Lead agency

-055 Timing of the SEPA process

-060 Content of environmental review

-070 Limitations on actions during SEPA process

-080 Incomplete or unavailable information

-090 Supporting documents

-100 Information required of applicants.

-158 Reliance on existing plans, laws, and regulations.

-164 Planned actions - Definitions and criteria.

-168 Ordinances or resolutions designating planned actions - Procedures for adoption

-172 Planned actions - Project review.

-908 Critical Areas. (Ord. 3111 §2, 3/15/2002; Ord. 2977 §3 (part), 12/26/97;

Ord. 2312 §1, 10/1/84.)

15.04.035 - Integrated Project Review.

A. In reviewing a project action, the City may determine that the requirements for environmental analysis, protection, and mitigation measures in the City's development regulations and Comprehensive Plan adopted under Chapter 36.70A RCW, and in other applicable laws and rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply, provided that the following requirements are met:

1. In the course of project review, including any required environmental analysis, the City considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the Comprehensive Plan, or other rules or laws; and

2. The City bases or conditions its approval on compliance with these requirements or mitigation measures.

B. If the City's Comprehensive Plan and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsection A of this section, the City shall not impose additional mitigation under this Chapter during project review. Project review shall be integrated with environmental analysis under this Chapter.

C. The Comprehensive Plan or development regulation shall be considered to adequately address an impact if the City, through the planning and environmental review process under Chapter 36.70A RCW and this Chapter, has identified the specific adverse environmental impacts and:

1. The impacts have been avoided or otherwise mitigated; or

2. The City Council has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by Chapter 36.70A RCW.

D. In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the City shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the City shall base or condition its project approval on compliance with these other existing rules or laws.

E. Nothing in this section limits the City's authority in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this Chapter and the State Environmental Policy Act, Chapter 43.21C RCW.

F. A planned action, as defined in this subsection, does not require a threshold determination or the preparation of an environmental impact statement under this Chapter, but is subject to environmental review and mitigation as provided in this Chapter. For purposes of this subsection, a "planned action" means one or more types of project action that:

1. Are designated planned actions by an ordinance or resolution adopted by the City Council;
2. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with the Comprehensive Plan;
3. Are not essential public facilities as defined in RCW 36.70A.200; and
4. Are consistent with the Comprehensive Plan. (Ord. 2911 §8, 3/29/96)

15.04.040 Threshold Determinations. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The City adopts the following sections by reference:

WAC 197-11-300 Purpose of this part

- 305 Categorical exemptions
- 310 Threshold determination required
- 315 Environmental checklist
- 330 Threshold determination process
- 335 Additional information
- 340 Determination of nonsignificance (DNS)
- 350 Mitigated DNS
- 355 Optional DNS process
- 360 Determination of significance (DS)/initiation of scoping
- 390 Effect of threshold determination. (Ord. 2977 §3 (part), 12/26/97; Ord.

2312 §1, 10/1/84)

15.04.045 Timing of Threshold Determinations.

A. Within thirty days of receipt of an application for a proposal and a SEPA checklist, the Responsible Official shall either issue a threshold determination, respond to the applicant with a notification of completeness, or request in writing any additional information necessary to complete the proposal application and the SEPA checklist so that the environmental effects can be meaningfully evaluated. The request for additional information may include the following:

1. information describing the proposal as set forth in WAC 197-11-055, 060, or 784 or any other provisions of Ch. 197-11 WAC or Ch. 43.21C RCW;
2. information completing the SEPA checklist as set forth in WAC 197-11-960 or any other provision of Ch. 197-11 WAC or Ch. 43.21C RCW;
3. Any additional information required pursuant to WAC 197-11-335 or 350 or any other provisions of Ch. 197-11 WAC or Ch. 43.21C RCW; or
4. any additional information reasonably related to determining if there may be significant adverse impacts from the proposal.

B. The Responsible Official shall issue a threshold determination on a completed application no later than ninety days after the application for a proposal, the SEPA checklist, and any necessary supporting documentation are complete.

C. The applicant may request an additional thirty days for the threshold determination in order for the Responsible Official to evaluate mitigation measures proposed by the applicant. The Responsible Official shall grant such extension, if requested. (Ord. 2708 §1, 9/11/92.)

15.04.050 Environmental Impact Statement (EIS). This part contains the rules for preparing environmental impact statements. The City adopts the following sections by reference:

- WAC 197-11 -400 Purpose of EIS
- 402 General requirements
- 405 EIS types
- 406 EIS timing
- 408 Scoping. (Ord. 2312 §1, 10/1/84)

15.04.060 Commenting. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The City adopts the following sections by reference:

- WAC 197-11-500 Purpose of this part
- 502 Inviting comment
- 504 Availability and cost of environmental documents
- 508 SEPA register
- 535 Public hearings and meetings
- 545 Effect of no comment
- 550 Specificity of comments
- 560 FEIS response to comments
- 570 Consulted agency costs to assist lead agency. (Ord. 2312 §1, 10/1/84)

15.04.070 Using Existing Environmental Documents. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the City's own environmental compliance. The City adopts the following sections by reference:

- WAC 197-11 -600 When to use existing environmental documents
- 610 Use of NEPA documents
- 620 Supplemental environmental impact statement - Procedures
- 625 Addenda - Procedures
- 630 Adoption - Procedures
- 635 Incorporation by reference - Procedures
- 640 Combining documents. (Ord. 2312 §1, 10/1/84)

15.04.080 SEPA and Agency Decisions. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The City adopts the following sections by reference:

- WAC 197-11 -650 Purpose of this part
- 655 Implementation
- 660 Substantive authority and mitigation
- 680 Appeals. (Ord. 2312 §1, 10/1/84)

15.04.090 Definitions. This part contains uniform usage and definitions of terms under SEPA. The City adopts the following sections by reference, as supplemented by WAC 173-806-040:

WAC 197-11 -700 Definitions

- 702 Act
- 704 Action
- 706 Addendum
- 708 Adoption
- 710 Affected tribe
- 712 Affecting
- 714 Agency
- 716 Applicant
- 718 Built environment
- 720 Categorical exemption
- 721 Closed record appeal
- 722 Consolidated appeal
- 724 Consolidated appeal
- 726 Cost-benefit analysis
- 728 County/city
- 730 Decision maker
- 732 Department
- 734 Determination of nonsignificance (DNS)
- 736 Determination of significance (DS)
- 738 EIS
- 740 Environment
- 742 Environmental checklist
- 744 Environmental document
- 746 Environmental review
- 748 Environmentally sensitive area
- 750 Expanded scoping
- 752 Impacts
- 754 Incorporation by reference
- 756 Lands covered by water
- 758 Lead agency
- 760 License
- 762 Local agency
- 764 Major action
- 766 Mitigated DNS
- 768 Mitigation
- 770 Natural environment
- 772 NEPA
- 774 Nonproject
- 776 Phased review
- 778 Preparation
- 780 Private project
- 782 Probable
- 784 Proposal
- 786 Reasonable alternative
- 788 Responsible official
- 790 SEPA
- 792 Scope
- 793 Scoping
- 794 Significant
- 796 State agency
- 797 Threshold determination
- 799 Underlying governmental action. (Ord. 2977 §3 (part), 12/26/97; Ord.

2312 §1, 10/1/84)

15.04.100  
15.04.130

15.04.100 Categorical Exemptions. The City adopts by reference the following rules for categorical exemptions, as supplemented in the ordinance codified herein:

- WAC 197-11 -800 Categorical exemptions
- 880 Emergencies
- 890 Petitioning DOE to change exemptions. (Ord. 2312 §1, 10/1/84)

15.04.110 Agency Compliance. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The City adopts the following sections by reference:

- WAC 197-11 -900 Purpose of this part
- 902 Agency SEPA policies
- 916 Application to ongoing actions
- 920 Agencies with environmental expertise
- 922 Lead agency rules
- 924 Determining the lead agency
- 926 Lead agency for governmental proposals
- 928 Lead agency for public and private proposals
- 930 Lead agency for private projects with one agency with jurisdiction
- 932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city
- 934 Lead agency for private projects requiring licenses from a local agency, not a county/city and one or more state agencies
- 936 Lead agency for private projects requiring licenses from more than one state agency
- 938 Lead agencies for specific proposals
- 940 Transfer of lead agency status to a state agency
- 942 Agreements on lead agency step
- 944 Agreements on division of lead agency duties. (Ord. 2312 §1, 10/1/84.)

15.04.120 Forms. The City adopts the following forms and sections by reference:

- WAC 197-11 -960 Environmental checklist
- 965 Adoption notice
- 970 Determination of nonsignificance (DNS)
- 980 Determination of significance and scoping notice (DS)
- 985 Notice of assumption of lead agency status
- 990 Notice of action. (Ord. 2312 §1, 10/1/84.)

15.04.130 Additional Definitions. In addition to those definitions contained within WAC 197-11-040, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Department" means any division, subdivision or organizational unit of the City established by ordinance, rule, or order.
- B. "SEPA Rules" means Chapter 197-11 WAC adopted by the Council on Environmental Policy and amended by the Department of Ecology.
- C. "Early notice" means the City's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures). (Ord. 2312 §1, 10/1/84.)



15.04.140 Environmentally Sensitive Areas.

A. The map filed under City Clerk File No. 0.84 and amendments thereto, which is adopted by reference, designates the location of the environmentally sensitive areas within the City.

B. Major actions which will be located wholly or partially within an environmentally sensitive area are to be treated no differently than other major actions under these guidelines. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

C. The following categorical exemptions shall not apply within Environmentally Sensitive Areas:

Subsections (1), (2)(a) through (h), (3), (5), (6)(a), (14)(c), (24)(a) through (g), and (25)(d), (f), (h), (I), of WAC 197-11-800. (Ord. 2594 §1, 6/27/90; Ord. 2312 §1, 10/1/84; Ord. 1980 §3, 7/29/78; Ord. 1886, 7/15/76.)

15.04.150 Lead Agency Determination and Responsibilities.

A. When the City receives or initiates a proposal, any portion of which involves a major action, the Responsible Official shall determine the lead agency for that proposal pursuant to the criteria set forth in WAC 197-11-050 and 197-11-922 through 197-11-940. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined, or the Responsible Official is aware that another agency is in the process of determining the lead agency. Note: A lead agency must be an agency with jurisdiction.

B. In those instances in which the City is the lead agency, the Responsible Official of the City shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

C. In those instances in which the City is not the lead agency for a proposal, all Departments of the City shall utilize and consider as appropriate either the declaration of nonsignificance or the final EIS of the lead agency in conjunction with the decisions of the City on the proposal. In such instances, no City Department shall prepare or require preparation of a declaration of nonsignificance or EIS in addition to that prepared by the lead agency.

D. In the event that the City or any Department thereof receives a lead agency determination made by another agency, which does not appear to be in accord with the criteria of WAC 197-11-922 through 197-11-940, it may object thereto. Any such objection must be made and resolved within fifteen days of receipt of the determination, or the City must petition the Department of Ecology for a lead agency determination pursuant to WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the City shall be initiated by the City Manager.

E. Departments of the City are authorized to make agreements as to lead agency status pursuant to WAC 197-11-942 and WAC 197-11-944; provided, that any such agreement involving assumption of lead agency status by the City will first be approved by the Responsible Official for the City, and, that any Department which will incur responsibilities as a result of any such agreement will approve the agreement.

F. Any Department making a lead agency determination for a private project shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal. (Ord. 2312 §1, 10/1/84; Ord. 1980 §4, 7/29/78; Ord. 1886 §5, 7/15/76.)

15.04.160 Use of Exemptions.

A. When the City receives an application for a license or, in the case of governmental proposals, a Department initiates a proposal, the Responsible Official shall determine whether the license and/or the proposal is exempt. The Responsible Official's determination that the proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this Chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

B. In determining whether or not a proposal is exempt, the Responsible Official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Responsible Official shall determine the lead agency, even if the license application that triggers the Department consideration is exempt. C. If a proposal includes both exempt and non-exempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this Chapter as set forth in WAC 197-11-070. A Department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if non-exempt actions were not approved; and a Department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved. (Ord. 2312 §1, 10/1/84.)

15.04.170 Use of Environmental Checklist.

A. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license certificate or other approval not specifically exempted in this Chapter; except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, for determining the Responsible Official and for making the threshold determination.

B. For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the Department initiating the proposal shall complete the environmental checklist for that proposal.

C. The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

1. The City has technical information on a question or questions that is unavailable to the private applicant; or
2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. (Ord. 2312 §1, 10/1/84.)

15.04.180 Use of Mitigated DNS.

A. As provided in this Section and in WAC 197-11-350, the Responsible Official may issue a DNS based on conditions attached to the proposal by the Responsible Official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether an EIS is likely under WAC 197-11-350. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the Department is lead agency; and
2. Precede the City's actual threshold determination for the proposal.

C. The Responsible Official should respond to the request for early notice within fourteen (14) working days. The response shall:

1. Be written;
2. State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific areas of concern that are leading the City to consider a DS; and
3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the City shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a DNS under WAC 197-11-340(2).

2. If the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.

H. If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

I. The City's written response under subsection B of this Section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination. (Ord. 3071, §1, (part), 12/15/2000; Ord. 2312 §1, 10/1/84.)

#### 15.04.190 Additional Timing Considerations.

A. For nonexempt proposals the DNS or Final EIS for the proposal shall accompany the City's staff recommendation to the Planning Commission or similar advisory body.

B. If the City's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications. (Ord. 2312 §1, 10/1/84.)

#### 15.04.200 Preparation of EIS.

A. The draft and final EIS shall be prepared either by the Responsible Official or his designee, or by a private applicant or a consultant retained by the private applicant. In the event the Responsible Official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The Responsible Official shall also notify the applicant of the City's procedure for EIS preparation including approval of the DEIS and FEIS prior to distribution.

B. In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, the Responsible Official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The Responsible Official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

C. The Responsible Official may require a private applicant to provide data and information which is not in the possession of the City relevant to any or all areas to be covered by the EIS. However, the applicant is not required to supply information that is not required under this Chapter or that is being requested from another agency. (This does not apply to information the City may request under another ordinance or statute.)

D. No matter who participates in the preparation of an EIS, it must be approved by the Responsible Official prior to distribution.

E. In all occasions of EIS preparation, the applicant is encouraged to provide information to the Responsible Official. (Ord. 2312 §1, 10/1/84; Ord. 1886 §7, 7/15/76.)

15.04.210 Additional Elements to be Covered in an EIS.

A. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this Chapter or subject the EIS to adequacy analysis on said elements:

1. Economy;
2. Social Policy analysis.

B. These sections may be covered in an EIS upon a determination by the Responsible Official based upon information presented in the proposal, permit application, environmental checklist, and the City's economic checklist. (Ord. 2312 §1, 10/1/84.)

15.04.220 Designation of Official to Perform Consulted Agency Responsibilities for the City.

A. The City Manager shall be responsible for the preparation of the written comments for the City in response to a consultation request prior to a threshold determination, participation in pre-draft consultation, or reviewing a draft EIS.

B. The City Manager shall be responsible for compliance by the City with WAC 197-11-550 wherever the City is a consulted agency, and he is authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate Departments of the City. (Ord. 2312 §1, 10/1/84; Ord. 1886 §8, 7/15/76.)

15.04.230 Designation of Responsible Official.

A. For those proposals for which the City is the lead agency, the Responsible Official shall be the City Manager or his designee.

B. The Responsible Official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the lead agency or Responsible Official by those sections of the SEPA Rules which are adopted by reference in this Chapter for all proposals for which the City is the lead agency. (Ord. 2312 §1, 10/1/84; Ord. 1980 §5, 7/29/78; Ord. 1886 §8, 7/15/76.)

15.04.240 SEPA Public Information. All documents required by the SEPA Rules (Chapter 197-11 WAC) shall be retained by the City and made available in accordance with Chapter 42.17 RCW (Washington State Open Government Act). Ord. 2312 §1, 10/1/84; Ord. 1980 §7, 7/29/78.)

15.04.250 Fees. The following fees shall be required for actions by the City in accordance with the provisions of this Chapter.

A. Threshold determination. For every environmental assessment to be performed by the City when the City is lead agency, a fee in the amount established by ordinance and codified in Chapter 3.70 PAMC, shall be required of the proponent of the proposal. This fee shall be collected prior to undertaking the threshold determination, and the time periods provided by this Chapter for making a threshold determination shall not begin to run until payment of the fee.

B. Environmental Impact Statements.

1. For all proposals requiring an EIS for which the City is the lead agency and for which the Responsible Official determines that the EIS shall be prepared by employees of the City, the City may charge and collect a reasonable fee from any applicant to cover costs incurred by the City in the preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of and shall post bond or otherwise insure payment of such costs.

2. The Responsible Official may determine that the City will contract directly with a consultant for preparation of environmental documents for activities initiated by some persons or entity other than the City and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the City and applicant after a call for proposals. Applicants may be required to post bond or otherwise insure payment of such costs.

3. In the event that a proposal is modified so that an EIS is no longer required, the Responsible Official shall refund any costs collected under divisions 1 and 2 of this subsection which were collected for costs not incurred.

C. No fee shall be collected by the City for performing its duties as a consulted agency.

D. The City may charge any person for copies of any document prepared pursuant to the requirements of this Chapter, and for mailing thereof, in a manner provided by Chapter 42.17 RCW.

E. The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this Chapter relating to the applicant's proposal. (Ord. 2789 §9, 1/1/94; Ord. 2312 §1, 10/1/84; Ord. 1980 §8, 7/29/78; Ord. 1886 §10, 7/15/76.)

15.04.260 Authority to Deny or Condition Action to Mitigate or Prevent Adverse Environmental Impact.

A. The City shall have the authority to deny or condition an action so as to mitigate or prevent adverse environmental impacts. This authority applies to all City activities, including actions as defined in this Chapter, whether or not such activities are considered to be ministerial in nature.

B. The policies and goals set forth in this Chapter are supplementary to those in the existing authorization of the City of Port Angeles.

C. The City may attach conditions to a permit or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The City has considered whether other local, State or Federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection E of this Section and cited in the license or other decision document.

D. The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this Chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection E of this Section and identified in writing in the decision document.

E. The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this Section:

1. The City shall use all practicable means, consistent with other essential considerations of State policy, to improve and coordinate plans, functions, programs, and resources to the end that the State and its citizens may:

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- a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
  - b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
  - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
  - d. Preserve important historical, cultural, and natural aspects of our national heritage;
  - e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
  - f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
  - g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
2. The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
3. The City adopts by reference the policies in the following City codes, ordinances, resolutions, plans guidelines and regulations:
- a. The City Comprehensive Plan (Ordinance No. 1885, as amended);
  - b. The City Zoning Ordinance (Ordinance No. 1709, as amended);
  - c. The City Subdivision Regulations (Ordinance No. 1631, as amended);
  - d. The Shoreline Master Program (Ordinance No. 2033, as amended);
  - e. The City Environmental Policy Act (PAMC 15.04);
  - f. The regulations of the Olympic Air Pollution Control Authority, as amended;
  - g. the City's Clearing and Grading, Wetlands Protection, Environmentally Sensitive Areas Protection, Noise Control, and Flood Damage Protection Ordinances, all as codified in Title 15 PAMC and as amended;
  - h. Any other policies of the City which have been incorporated into resolutions, regulations, ordinances, plans or codes.
- C. Any conditional approval or denial of a proposal by the Responsible Official which does not require approval by the City Council may be appealed to the City Council by filing a written notice with the City Clerk within ten days following the date of decision by the Responsible Official. At its next regularly scheduled meeting, the City Council shall set the date for a public hearing, notice of which shall be published in a newspaper of general circulation at least ten days prior to said hearing. Review by the City Council shall be on a de novo basis, in accordance with requirements of Section 15.04.280 B, C and D. After the public hearing, the Council shall affirm the decision of the Responsible Official, reverse the decision, modify the decision, or remand the decision in light of facts not previously available to the Responsible Official. (Ord. 2847, 12/30/94; Ord. 2312 §1, 10/1/84; Ord. 2099 §1, 9/15/80; Ord. 1886 §11, 7/15/76.)

15.04.270 Public Notice.

- A. Whenever the City of Port Angeles issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the City shall give public notice as follows:
1. If public notice is required for a non-exempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
  2. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by:
    - a. Posting the property, for site-specific proposals;
    - b. Publishing notice in a newspaper of general circulation in the County, City, or general area where the proposal is located.

3. Whenever the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

B. Whenever the City issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
2. Posting the property, for site-specific proposals;
3. Publishing notice in a newspaper of general circulation in the County, City, or general area where the proposal is located.

C. Whenever possible, the City shall integrate the public notice required under this Section with existing notice procedures for the City's nonexempt permits or approvals required for the proposal.

D. The City may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 2312 §1, 10/1/84.)

15.04.280 Appeals. The City of Port Angeles establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

A. Any agency or person aggrieved by an action of the City may appeal the City's procedural compliance with Chapter 197-11 WAC for issuance of the following:

1. A final DNS. Appeal of the DNS must be made to the City Council within fourteen (14) days of the date the DNS is final [see WAC 197-11-390(2)(a)] for those determinations associated with a permit or action not subject to review under Chapter 18.02 PAMC. For those determinations subject to Chapter 18.02 PAMC, the filing of the appeal shall be consistent with the requirements of that Chapter and shall be made within fourteen (14) days of the date of the decision.

2. ADS. The appeal must be made to the City Council within fourteen (14) days of the date the DS is issued.

3. An EIS. Appeal of the FEIS must be made to the City Council within fourteen (14) days of the date the permit or other approval is issued.

B. For any appeal under this subsection, the City shall provide for a record that shall consist of the following:

1. Findings and conclusions;
2. Testimony under oath; and
3. A taped or written transcript.

C. The City shall provide for an electronically recorded transcript of the proceedings and may require the appellant to provide a written transcript.

D. The procedural determination by the City's Responsible Official shall carry substantial weight in any appeal proceeding.

E. The City shall give official notice under WAC 197-11-680(5) stating the date and place for commencing an appeal. If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

F. Timing of Appeals.

1. There shall be no more than one city appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement). The appeal proceeding on a determination of significance may occur before the City's final decision on a proposed action. The appeal proceeding on a determination of nonsignificance may occur before the City's final decision on a proposed action only if the appeal is heard at a proceeding where the hearing body will render a final recommendation or decision on the proposed underlying governmental action. Such appeals shall also be allowed for a determination of significance/nonsignificance which may be issued by the City after supplemental review.

2. The City shall consolidate an appeal of procedural issues and of substantive determinations made under this Chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing body to consider the agency decision on a proposal and any environmental determinations made under this Chapter, with the exception of the appeal, if any, of a determination of significance. (Ord. 3071, §1 (part) 12/15/2000; Ord. 2977 §3 (part), 12/26/97; Ord. 2911 §9, 3/29/96; Ord. 2312 §1, 10/1/84.)



Chapter 15.08

SHORELINE MANAGEMENT

Sections:

15.08.010	Shoreline Management Act Adopted.
15.08.020	RCW Subsections Adopted by Reference.
15.08.030	Washington Administrative Code - Shoreline Guidelines Adopted.
15.08.040	Clallam County Master Program Adopted.
15.08.050	Definitions.
15.08.060	Permit Applications.
15.08.070	Shoreline Advisory Committee.
15.08.080	Staff Assistance.
15.08.090	Public Hearing.
15.08.100	Council Action.
15.08.105	Council Hearing.
15.08.110	Rescission of Permits.
15.08.120	Inspection.
15.08.130	General Penalty.

15.08.010 Shoreline Management Act Adopted. The City adopts by reference and affirms the provisions of RCW 90.58.020 which establishes the State policy with regard to use of the shorelines. (Ord. 2033 §1, 7/17/79.)

15.08.020 RCW Sections Adopted by Reference. The City adopts by reference the following sections or subsections of Chapter 90.58 RCW as now or hereafter amended:

- RCW 90.58.030 - Definitions and concepts.
  - .040 - Program applicable to shorelines of the state.
  - .050 - Program as cooperative between local government and state -Responsibilities differentiated.
  - .100(1) - Program as constituting use regulations.
  - .140 - Development permits - Grounds for granting - Administration by local government, conditions - Applications - Notices - Rescission - When permits not required - Approval when permit for variance or conditional use.
  - .147 - Substantial development permit - exemption for projects to improve fish or wildlife habitat or fish passage.
  - .150 - Selective commercial timber cutting when.
  - .160 - Prohibition against surface drilling for oil or gas, where.
  - .180 - Appeals from granting, denying or rescinding permits, procedure - Board to act, when - Local government appeals to board - Grounds for declaring master program invalid - Appeals to court, procedure.
- RCW 90.58.190 - Review and adjustments to master programs.
  - .210 - Court actions to insure against conflicting uses and to enforce.
  - .230 - Violators liable for damages resulting from violation - Attorney's fees and costs.

15.08.020  
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.240 - Additional authority granted department and local governments.  
.270 - Nonapplication to certain structures, docks, developments, etc., placed in navigable waters - Nonapplication to certain rights of action, authority.  
.320 - Height limitation respecting permits.  
.355 - Hazardous substance remedial actions - procedural requirements not applicable.  
.380 - Adoption of wetland manual.  
.515 - Watershed restoration projects - exemption. (Ord. 2929 §1, 9/13/96; Ord. 2033 §2, 7/17/79.)

15.08.030 Washington Administrative Code - Shoreline Permit and Shorelands/Wetlands Designation Guidelines Adopted. The City adopts by reference the following sections or subsections of Chapters 173-27 and 173-22 WAC as now or hereafter amended; provided that, in the event of a conflict between the following Washington Administrative Code provisions and the Revised Code of Washington provisions adopted by reference in PAMC 15.08.020, the latter shall prevail:

WAC 173-27-010 - Authority.

.020 - Purpose.  
-030 - Definitions.  
-040 - Developments exempt from substantial development permit requirement.  
-050 - Letter of exemption.  
-060 - Applicability of Chapter 90.58 RCW to federal lands and agencies.  
-070 - Application of the permit system to substantial development undertaken prior to the effective date of the act.  
-080 - Non-conforming use and development standards.  
-090 - Time requirements of permit.  
-100 - Revisions to permits.  
-110 - Notice required.  
-120 - Special procedures for limited utility extensions and bulkheads.  
-130 - Filing with department.  
-140 - Review criteria for all development.  
-150 - Review criteria for substantial development permits.  
-160 - Review criteria for conditional use permits.  
-170 - Review criteria for variance permits.  
-180 - Application requirements for substantial development, conditional use, or variance permit.  
-190 - Permits for substantial development, conditional use, or variance.  
-200 - Development review of conditional use and variance permits.  
-210 - Minimum standards for conditional use and variance permits.  
-220 - Request for review.

WAC 173-22-010 - Purpose.

-030 - Definitions.  
-035 - Wetland identification and delineation.  
-040 - Shoreland designation criteria.  
-050 - Conflicts between designations and criteria.  
-052 - Alteration of shorelines affecting designations.

- 060 - Shoreline designation maps.
- 061 - Clallam County.
- 070 - Lands within federal boundaries.
- 080 - Wetland delineation manual. (Ord. 2951 §1, 3/14/97; Ord. 2929 §2, 9/13/96; Ord. 2771, §1, 7/30/93; Ord. 2033 §3, 7/17/79.)

15.08.035 Washington Administrative Code - Shoreline Enforcement Guidelines Adopted.  
The City adopts by reference the following sections or subsections of Chapter 173-27 WAC as now or hereafter amended; provided that, in the event of a conflict between the following Washington Administrative Code provisions and the Revised Code of Washington provisions adopted by reference in PAMC 15.08.020, the latter shall prevail:

WAC 173-27-240 - Authority and Purpose.

- 250 - Definitions.
- 260 - Policy.
- 270 - Order to cease and desist.
- 280 - Civil penalty.
- 290 - Appeal of civil penalty. (Ord. 2951 §2, 3/14/97)

15.08.040 City of Port Angeles Shoreline Master Program. The City of Port Angeles Shoreline Master Program, which is attached hereto as Exhibit A, (on file in the City Clerk's Office), is hereby adopted as the Shoreline Master Program for the City. All references in the Shoreline Master Program to "Shoreline Administrator" shall mean the Director of Community Development for the City of Port Angeles or his/her designee. ( Ord. 3052 §1 & 2, 6/16/2000; Ord. 2991 [am. map], 5/29/98; Ord. 2869 §1, 6/2/95; Ord. 2771, §2, 7/30/93; Ord. 2065 §1, 2/16/80; Ord. 2033 §3, 7/17/79.)

15.08.050 Definitions. In addition to those definitions contained within RCW 90.58.030 and WAC 173-14-030, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Advisory committee" means the Port Angeles City Planning Commission.
- B. "Council" means the City Council of the City.
- C. "Local government" means the City.
- D. "Master program" means the City of Port Angeles Shoreline Master Program and the use regulations, together with maps, charts, diagrams or other descriptive material and text; a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020 as adopted and amended by the City.
- E. "The Planning Department" means the Planning Department of the City.
- F. "Public Works Department" means the Public Works Department of the City.
- G. "Shorelines" means all the water areas within the City.
- H. "Shorelines of statewide significance" means those shorelines described in RCW 90.58.020(2)(e) which are within the City.
- I. "Shorelines of the City" means the total of all shorelines and shorelines of statewide significance within the City. (Ord. 2869 §2, 6/2/95; Ord. 2033 §5, 7/17/79.)

15.08.060 Permit Applications.

- A. Application for all permits required under this Chapter shall be made with the Planning Department by the property owner, lessee, contract purchaser or other person entitled to possession of the property, or by an authorized agent.
- B. A filing fee established by ordinance and codified in Chapter 3.70 PAMC shall be paid to the Planning Department at the time an application is filed. (Ord. 2789 §10, 1/1/94; Ord. 2143 §3, 6/1/81; Ord. 2033 §6, 7/17/79.)

15.08.070 Shoreline Advisory Committee/Planning Commission.

A. The Council appoints the Planning Commission as the Shoreline Advisory Committee, which shall consider applications and make decisions regarding permits, based on the policies contained under Chapter 90.58 RCW, the provisions of Chapter 173-27 and 173-22 WAC and the City of Port Angeles Shoreline Master Program, as adopted and amended by the City.

The Planning Commission shall periodically review the Master Program and make recommendations to the City Council regarding such adjustments as are necessary.

B. The Planning Commission shall review an application for a permit based on the following:

1. The application;
2. The environmental impact statement, if one has been prepared;
3. Written comments from interested persons;
4. Information and comments from other City Departments, if applicable;
5. Independent study of the Advisory Committee and of the Planning Department; and
6. Evidence presented at the public hearing, if any, held pursuant to provisions of this Chapter.

The Planning Commission may require that an applicant furnish information in addition to the information required in the application forms prescribed.

C. The Planning Commission shall make its decision within a reasonable time after the public hearing. (Ord. 2951 §3, 3/14/97; Ord. 2869 §3, 6/2/95; Ord. 2033 §7, 7/17/79.)

15.08.080 Staff Assistance.

A. The Planning Department shall prepare an agenda of matters to be considered by the Committee. A copy of the agenda shall be mailed to persons who have expressed an interest in presenting their views on an application. The agenda shall state the time and place where the Committee will conduct its public meeting, and the notice to interested parties shall be sent not less than six days prior to the date of the public hearing.

B. The Planning Department shall provide staff assistance, printing and publication expenditures, and any other assistance as may be hereafter designated by the Council to assist the Advisory Committee in carrying out its responsibilities.

C. The Planning Department is authorized to respond to letters of exemption, in accordance with WAC 173-27-050, and other requests for information pertaining to the Shoreline Master Program.

D. The Planning Department is authorized to revise permits, in accordance with WAC 173-27-100. (Ord. 2951 §4, 3/14/97; Ord. 2771 §3, 7/30/93; Ord. 2134 §1, 4/19/81; Ord. 2033 §8, 7/17/79.)

15.08.090 Public Hearing.

A. Public hearings on all permit applications under this Chapter shall be conducted by the Advisory Committee.

B. If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Advisory Committee may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing, and no further notice is required.

C. The Advisory Committee shall have the power to prescribe rules and regulations for the conduct of hearings before it. (Ord. 2033 §9, 7/17/79.)

15.08.100 Council Appeal.

A. Any person aggrieved by the decision of the Planning Commission or Director of Community Development may appeal the decision to the City Council.

B. Appeals shall be submitted to the Planning Department in writing within 14 days following the date of the decision.

C. The City Council shall conduct a closed record hearing on the appeal of the Planning Commission's decision and an open record public hearing on the appeal of the Director of Community Development's decision with notice being given as set forth in WAC 173-27-110. The Council's decision shall be final unless review is requested pursuant to the procedures established in RCW 90.58.180 and Chapter 461-08 WAC. (Ord. 2951 §5, 3/14/97; Ord. 2033 §10, 7/17/79.)

15.08.110 Rescission of Permits.

A. Any permit granted pursuant to this Chapter may be rescinded or modified upon a finding by the Council that the permittee has not complied with the conditions of his permit.

B. The Council may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

C. Before a permit can be rescinded or modified, a public hearing shall be held by the Council no sooner than ten days following the service of notice on the permittee. The Council shall have the power to prescribe rules and regulations for the conduct of such hearings.

D. This Section shall not affect or abate any legal action taken by the City against a permittee for noncompliance with permit conditions. (Ord. 2033 §11, 7/17/79.)

15.08.120 Inspection. The Director of Community Development or his designee or Building Inspectors may inspect properties as necessary to determine whether permittees have complied with conditions of their respective permits. Whenever there is reasonable cause to believe that development has occurred upon any premises in violation of the conditions of an issued permit and/or the Shoreline Management Act of 1971 and/or this Chapter, the Director of Community Development or his designee may enter upon such premises at all reasonable times to inspect the same. Such City employees shall present proper credentials before demanding entry. If such premises are unoccupied, a reasonable effort shall be made to locate the owner or tenant and demand entry. (Ord. 2033 §12, 7/17/79.)

15.08.130 General Penalty. Any person violating any of the provisions of this Chapter is guilty of a misdemeanor. Such person is guilty of a separate offense for each and every day during any portion of which violation of this Chapter is committed, continued or permitted by such person. (Ord. 2033 §13, 7/17/79.)

## Chapter 15.12

### FLOOD DAMAGE PREVENTION

#### Sections:

#### ARTICLE I. GENERAL PROVISIONS

15.12.010	Title.
15.12.020	Purpose.
15.12.030	General Provisions.
15.12.040	Compliance Required.
15.12.050	Interpretation and Application.
15.12.060	More Stringent Regulations to Apply in Case of Conflict.
15.12.070	Disclaimer of Liability.

#### ARTICLE II. DEFINITIONS

15.12.075	Appeal.
15.12.076	Area of Shallow Flooding.
15.12.080	Area of Special Flood Hazard.
15.12.090	Breakaway Wall.
15.12.100	Coastal High Hazard Area.
15.12.110	Development.
15.12.120	Flood or Flooding.
15.12.130	Flood Insurance Rate Map (FIRM).
15.12.140	Flood Insurance Study.
15.12.150	Floodway.
15.12.160	Lowest Floor.
15.12.163	Manufactured Home.
15.12.166	Manufactured Home Park or Subdivision.
15.12.180	New Construction.
15.12.190	Start of Construction.
15.12.200	Structure.
15.12.210	Substantial Improvement.
15.12.215	Variance.
15.12.216	Water Dependent.

#### ARTICLE III. ADMINISTRATION

15.12.220	Duties of Director of Public Works.
15.12.230	Duties of Director of Community Development.
15.12.235	Variance Procedure.

Sections: (Cont'd)

ARTICLE IV. REQUIREMENTS AND STANDARDS

- 15.12.240 Development Permit Required - Application Requirements.
- 15.12.250 Standards Generally.
- 15.12.260 Provisions for Flood Hazard Protection Reduction - General Standards.
- 15.12.270 Specific Standards.
- 15.12.330 Floodways.
- 15.12.335 Wetlands Management.
- 15.12.340 Coastal High Hazard Area.

ARTICLE V. VIOLATION

- 15.12.350 Violation is Misdemeanor.

ARTICLE I. GENERAL PROVISIONS

15.12.010 Title. This Chapter may be cited as the Flood Damage Prevention Chapter of the City of Port Angeles. (Ord. 2091 §1, 8/9/80.)

15.12.020 Purpose. It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas of the City, by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that those who occupy areas of special flood hazard assume responsibility for their actions;
- H. To assure the availability of flood insurance within the City of Port Angeles. (Ord. 2514 §1, 12/30/88; Ord. 2445 §1, 6/23/87; Ord. 2091 §2, 8/9/80.)

15.12.030 General Provisions.

- A. Lands to which this Chapter applies: This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Port Angeles.
- B. Basis for establishing the areas of special flood hazard: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled Flood Insurance Study for the City of Port Angeles, dated February, 1980, and revised September 28, 1990, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file at the office of the City Clerk, 321 East Fifth Street, Port Angeles, Washington 98362. (Ord. 2616 §1, 10/26/90; Ord. 2514 §3, 12/30/88; Ord. 2445 §3, 6/23/87; Ord. 2091 §4, 8/9/80.)

15.12.040 Compliance Required. No structure or land shall hereafter be constructed, located, extended, converted or altered without compliance with the terms of this Chapter as well as all other applicable regulations. (Ord. 2091 §5, 8/9/80).

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15.12.050 Interpretation and Application. In the interpretation and application of this Chapter, all provisions shall be:

- A. Considered as minimum requirements;
  - B. Liberally construed in favor of the governing body; and
  - C. Deemed neither to limit nor repeal any other powers granted under State statutes.
- (Ord. 2091 §7, 8/9/80.)

15.12.060 More Stringent Regulations to Apply in Case of Conflict. Should the provisions of this Chapter and any other ordinance, easement, covenant or deed conflict or overlap, whichever regulation imposes the more stringent regulations shall prevail. (Ord. 2091 §6, 8/9/80.)

15.12.070 Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes; it is based on scientific and engineering considerations. Larger floods can, and will, occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flood damages. This Chapter shall not create liability on the part of the City, any employee or officer thereof, or the Federal Insurance Administration, during any flood damages that may result from a reliance on this Chapter, or any administrative decision made hereunder. (Ord. 2091 §8, 8/9/80.)

## ARTICLE II. DEFINITIONS

15.12.075 Appeal. "Appeal" means a request for a review of the Director of Public Works' interpretation of any provision of this Chapter or a request for a variance. (Ord 2445 §2 (part), 6/23/87.)

15.12.076 Area of Shallow Flooding. "Area of Shallow Flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. (Ord. 2514 §2, 12/30/88.)

15.12.080 Area of Special Flood Hazard. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. (Ord. 2445 §2 (part), 6/23/87; Ord. 2091 §3 (part), 8/9/80.)

15.12.090 Breakaway Wall. "Breakaway wall" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. (Ord. 2445 §2 (part), 6/23/87; Ord. 2091 §3 (part), 8/9/80.)

15.12.100 Coastal High Hazard Area. "Coastal high hazard area" means the area subject to high velocity waters, including but not limited to, storm surges or tsunamis. The area is designated on a FIRM as Zone VI-30. (Ord. 2091 §3 (part), 8/9/80.)

15.12.110 Development. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard. (Ord. 2091 §3 (part), 8/9/80.)

15.12.120 Flood or Flooding. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
  - B. The unusual and rapid accumulation of runoff of surface waters from any source.
- (Ord. 2091 §2 (part), 8/9/80.)



15.12.130 Flood Insurance Rate Map (FIRM). "Flood insurance rate map" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. (Ord. 2091 §3 (part), 8/9/80.)

15.12.140 Flood Insurance Study. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood. (Ord. 2091 §3 (part), 8/9/80.)

15.12.150 Floodway. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Ord. 2091 §3 (part), 8/9/80.)

15.12.160 Lowest Floor. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter found at 15.12.270(A)1. (Ord. 2445 §2 (part), 6/23/87.)

15.12.163 Manufactured Home. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. (Ord. 2445 §2 (part), 6/23/87.)

15.12.166 Manufactured Home Park or Subdivision. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 2445 §2 (part), 6/23/87.)

15.12.180 New Construction. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this Chapter. (Ord. 2445 §2 (part), 6/23/87.)

15.12.190 Start of Construction. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. (Ord. 2445 §2 (part), 6/23/87; Ord. 2091 §3 (part) 8/9/80.)

15.12.200 Structure. "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground. (Ord. 2445 §2 (part), 6/23/87; Ord. 2091 §3 (part), 8/9/80.)

15.12.210  
15.12.220

15.12.210 Substantial Improvement. "Substantial improvement" means any repairs, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commenced, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. (Ord. 2445 §2, (part), 6/23/87; Ord. 2091 §3 (part), 8/9/80.)

15.12.215 Variance. "Variance" means a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter. (Ord. 2445 §2 (part), 6/23/87.)

15.12.216 Water Dependent. "Water Dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation. (Ord. 2514 §2, 12/30/88.)

### ARTICLE III. ADMINISTRATION

15.12.220 Duties of Director of Public Works. The Director of Public Works shall be primarily responsible for the administration and implementation of this Chapter. The Director of Public Works shall perform the following duties:

A. Review all development permits other than for subdivisions, short subdivisions and planned residential developments within flood hazard zones to determine:

1. That the permit requirements of this Chapter have been satisfied;
2. That all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required;
3. If the proposed development is located in the floodway, and if so, located to assure that the encroachment provisions of this Chapter are complied with.

B. When base flood elevation data has not been provided in accordance with Section 15.12.030 - General Provisions, the Director of Public Works shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer specific standards and floodways.

C. Obtain and record the following information:

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in PAMC 15.12.220(B), obtain and record the actual elevation, in relation to mean sea level, of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures:
  - a. Verify and record the actual elevation in relation to mean sea level;

and

- b. Maintain the floodproofing certifications required by this Chapter.

D. Maintain for public inspection all records pertaining to the provisions of this Chapter.

E. Notify adjacent communities and the office of the State Department of Ecology prior to any alteration or relocation of any watercourse, and submit evidence of such notification to the Federal Insurance Administration.

F. Require that maintenance is provided within the altered or relocated portion of said water course so that the flood carrying capacity is not diminished.

G. Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in Section 15.12.240. (Ord. 2425 §1, 3/15/89; Ord. 2415 §4, 12/30/88; Ord. 2445 §4, 6/23/87; Ord. 2091 §10, 8/9/80.)

15.12.230 Duties of Director of Community Development. The Director of Community Development shall perform the following duties:

A. Review all permits for subdivisions, short subdivisions or planned residential developments within flood hazard zones to determine:

1. That the permit requirements of this Chapter have been satisfied;
2. That all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

B. Transmit to the Department of Public Works all information required under the terms of this Chapter. (Ord. 2091 §11, 8/9/80.)

15.12.235 Variance Procedure.

A. Appeal Board:

1. The Board of Adjustment as established by the City of Port Angeles shall hear and decide appeals and requests for variances from the requirements of this Chapter.

2. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director of Public Works in the enforcement or administration of this Chapter.

3. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the Superior Court of Clallam County, as provided in Chapter 2.52 PAMC.

4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:  
a. the danger that materials may be swept onto other lands to the injury of others;

b. the danger to life and property due to flooding or erosion damage;  
c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;  
d. the importance of the services provided by the proposed facility to the community;

e. the necessity to the facility of a water front location, where applicable;  
f. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. the compatibility of the proposed use with existing and anticipated development;

h. the relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;

I. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Upon consideration of the factors of Sub-Section A(4) and the purposes of this Chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

6. The Director of Public Works shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances:

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a - k) in Sub-Section A(4) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this Section.

3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

- a. a showing of good and sufficient cause;
- b. a determination that failure to grant the variance would result in exceptional hardship to the applicant;
- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Sub-Section A(4), or conflict with existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for non-residential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Sub-Section B(1), and otherwise complies with the general standards.

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 2445 §5, 6/23/87.)

#### ARTICLE IV. REQUIREMENTS AND STANDARDS

##### 15.12.240 Development Permit Required - Application Requirements.

A. A development permit shall be required before construction or development within an area of special flood hazard established in PAMC 15.12.030B. If a permit for any development is required under another City ordinance, the development permit shall be combined with that permit. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions", and for all development, including fill and other activities, also as set forth in the "Definitions".

B. The application for development permit shall be made on forms furnished by the Department of Public Works. The application may include but shall not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information shall be required:

1. Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures;
2. Elevation in relation to mean sea level to which any structure has been flood-proofed;
3. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria of this Chapter;
4. A description of the extent to which any water course will be altered or relocated as a result of the proposed development. (Ord. 2514 §5, 12/30/88; Ord. 2091 §9, 8/8/80.)

15.12.250 Standards Generally. In all areas of special flood hazards, the standards set forth in Sections 15.12.260 through 15.12.320 are required. (Ord. 2091 §12 (part), 8/8/80.)

15.12.260 Provisions for Flood Hazard Protection Reduction - General Standards. In all areas of special flood hazards, the following standards are required:

- A. Anchoring.
  1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movements of the structure.
  2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- B. Construction Materials and Methods.
  1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  3. Electrical heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- C. Utilities.
  1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- D. Subdivision Proposals.
  1. All subdivision proposals shall be consistent with the need to minimize flood damage.
  2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (See PAMC 15.12.220(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 2445 §6, 6/23/87; Ord. 2091 §12 (part), 8/8/80.)

15.12.270 Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.12.030 General Provisions, or PAMC 15.12.220(B), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in PAMC 15.12.220(C).

4. Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Sub-Section (A).

5. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are at base flood level

C. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the City's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of PAMC 15.12.260(A). This paragraph applies to manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision. This paragraph does not apply to manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision except where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced. (Ord. 2616 §3, 10/26/90; Ord. 2524 §2, 3/15/89; Ord. 2514 §7, 12/30/88; Ord. 2445 §7, 6/23/87; Ord. 2091 §12 (part), 8/8/80.)

15.12.330 Floodways. Located within areas of special flood hazard as established in Section 15.12.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways except for:

1. repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and
2. repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either
  - i. before the repair, reconstruction, or repair is started, or
  - ii. if the structure has been damaged, and is being restored, before the damage occurred.

Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.

C. If Section 15.12.330(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter. (Ord. 2514 §8, 12/30/88; Ord. 2445 §8, 6/23/87; Ord. 2091 §13, 8/8/80.)

15.12.335 Wetlands Management. To the maximum extent possible, in order to avoid the short and long term adverse impacts associated with the destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to alleviate flooding impacts, the following measures will be considered:

A. Review proposals for development within base flood plains for their possible impacts on wetlands located within the flood plain.

B. Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and storm drainage.

C. Request technical assistance from the Department of Ecology in identifying wetland areas. (Ord. 2514 §9, 12/30/88.)

15.12.340 Coastal High Hazard Area. Located within areas of special flood hazard established in PAMC 15.12.030 are Coastal High Hazard Areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Chapter, the following provisions shall also apply:

A. Due to the dynamic nature of coastal high hazard areas located along the Pacific Ocean, in areas with designated Velocity Zones (V-zones) from Cape Disappointment to Cape Flattery, the following standards shall apply:

1. Prohibit new or substantially improved construction in designated V-zones; exceptions are for needed water dependent structures or structures that facilitate public recreational access to the shore. Structures which require siting in the V-zone should be sited landward of the primary dune if an active dune system is associated with the V-zone.

2. Prohibit any alteration of dunes in the above designated V-zones which could increase potential flood damage; this restriction includes prohibiting any modification or alteration or disturbance of vegetative cover associated with dunes located in designated V-zones.

B. All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

1. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

2. the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) of this Section.

C. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

D. All new construction shall be located landward of the reach of mean high tide.

E. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

F. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

G. Prohibit the use of fill for structural support of buildings. (Ord. 2616 §4, 10/26/90; Ord. 2514 §10, 12/30/88; Ord. 2445 §9, 6/23/87; Ord. 2091 §14, 8/8/80.)

## ARTICLE V. VIOLATION

15.12.350 Violation is Misdemeanor. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter. Violation or failure to comply with the provisions of this Chapter shall be a misdemeanor. Each day that a violation continues shall constitute a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord 2514 §6, 12/30/88; Ord. 2091 §16, 8/8/80.)



Chapter 15.16

NOISE CONTROL

Sections:

- 15.16.010 Adoption.
- 15.16.020 Variances.
- 15.16.030 Penalties.

15.16.010 Adoption. The following Chapters of Title 173, Washington Administrative Code, as now existing, and all future amendments, additions and new sections, are hereby adopted by reference:

- A. Chapter 173-58 WAC - Sound Level Measurement Procedures;
- B. Chapter 173-60 WAC - Maximum Environmental Noise Levels;
- C. Chapter 173-70 WAC - Watercraft Noise Performance Standards. (Ord. 2309 §1, 9/1/84.)

15.16.020 Variances. Any person seeking a variance as provided for in the regulations adopted by this Chapter shall file an application with the Board of Adjustment within ten days of being cited for a noise violation. The application shall be accompanied by information demonstrating why the applicant believes immediate compliance with noise requirements cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non-availability of feasible technology or control methods. The Board of Adjustment shall grant or deny variances in accordance with the procedures and requirements set forth in WAC 173-60-080. (Ord. 2309 §2, 9/1/84.)

15.16.030 Penalties. Any person found in violation of the established noise levels of this Chapter shall be subject to a civil penalty not to exceed One Hundred Dollars per day of violation. (Ord. 2309 §3, 9/1/84.)

CHAPTER 15.20  
ENVIRONMENTALLY SENSITIVE AREAS PROTECTION

Sections:

- 15.20.010 Findings of Fact
- 15.20.020 Purpose.
- 15.20.030 Definitions.
- 15.20.040 Applicability.
- 15.20.050 Permitted Uses.
- 15.20.060 Submittal Requirements.
- 15.20.070 Development Standards.
- 15.20.080 Development Exceptions.
- 15.20.090 Tracts and Easements.
- 15.20.100 Securities and Enforcement.
- 15.20.110 Appeals.

15.20.010 - Findings of Fact. The City Council of the City of Port Angeles hereby finds that:

- A. Development in stream corridors results in:
  - 1. Siltation of streams, which destroys spawning beds, kills fish eggs and alevins, irritates fish gills, reduces aquatic insect populations, fills stream channels, and causes flooding;
  - 2. Loss of stream corridor vegetation, which raises stream temperatures, destabilizes streambanks, causes erosion, removes nutrients by removing source of fallen leaves and streamside insects, increases sedimentation, and reduces recruitment of large wood debris necessary for stream structure;
  - 3. Elimination of wildlife and fish habitat. The stream corridor is especially sensitive and is recognized as being among the most productive terrestrial and aquatic ecosystems. It usually provides all four of the basic habitat components - water, food, cover and space. The stream corridor is usually richer in habitat diversity and, consequently, wildlife diversity and numbers of individuals are higher than in adjoining upland plant communities. Certain fish and wildlife species are totally dependent on the stream corridor and as uplands are developed, stream corridors become a place of refuge for many wildlife species;
  - 4. Increased peak flow rates and decreased summer low flow rates of streams, resulting in negative impacts to the physical and chemical requirements critical for sustained fish populations;
  - 5. Stream channelization, which increases current velocity and bank erosion, removes critical fish rearing and spawning habitat, and reduces habitat diversity and simplifies the biotic community;
  - 6. Piping of streamflow and crossing of streams by culverts, which increases potential for downstream flooding, reduces migratory fishery range and, therefore, fish populations, removes habitat, and eliminates the biotic community; and
  - 7. Construction near or within streams, which adversely impacts fish and wildlife by destroying habitat and degrading water quality and increases potential for flooding, property damage, and risk to public health, safety, and welfare.

B. Development of geological (erosion hazard, landslide hazard, seismic hazard) hazard areas results in:

1. Potential threat to the health and safety of residents and employees of businesses within the City;
2. Potential damage or loss to public and private property within the City;
3. Potential degradation of water quality and the physical characteristics of waterways due to increased sedimentation;
4. Potential losses to the public as a result of increased expenditures for replacing or repairing public facilities; providing publicly funded facilities to reduce or eliminate potential hazards to life and property; providing emergency rescue and relief operations; and from potential litigation resulting from incompatible development in these areas.

C. Development of fish and wildlife habitat areas results in:

1. Losses in the numbers and varieties of aquatic and terrestrial wildlife species;
2. Loss of streamside vegetation that increases erosion and sedimentation, and reduces the quality of water resources;
3. Loss of opportunities for outdoor recreation such as hunting, fishing, bird-watching, sightseeing and similar activities;
4. Loss of economic opportunities in forestry, fisheries, shellfish and tourism industries;
5. Loss of opportunities for scientific research and education.

D. Development of locally unique land features (ravines, marine bluffs, beaches) results in:

1. Disruption of the natural functioning of region surface drainage systems and the aquatic and terrestrial wildlife that depend on this habitat;
2. Increased threat to life and property as a consequence of exposure to geologic hazards and flooding;
3. Disruption of natural longshore drift processes that help maintain Ediz Hook and Port Angeles Harbor;
4. Destruction of natural greenbelts that serve to enhance the visual character of the community and serve as "community separators" that reduce the perceived degree of urbanization;
5. Loss of opportunities for trail systems and other forms of passive recreation.

(Ord. 2979 §1 (part), 2/13/98; Ord. 2656 §1 (part), 11/29/91.)

15.20.020 - Purpose. Surface streams and flood hazards, geologic hazards (erosion, landslide, seismic), fish and wildlife habitat areas, locally unique features (ravines, marine bluffs, beaches) and required buffers constitute environmentally sensitive areas that are of special concern to the City of Port Angeles. The purpose of this Chapter is to protect the environmentally sensitive resources of the Port Angeles community as required by the Growth Management Act and as provided in the Guidelines promulgated by the State of Washington. Accordingly, the intent of this Chapter is to use a functions and values approach and establish minimum standards for development of properties which contain environmentally sensitive features and to protect the public health, safety, and welfare in regard to environmentally sensitive areas by:

- A. Avoiding disturbance of these areas;
- B. Mitigating unavoidable impacts;
- C. Protecting from impacts of development by regulating alterations;
- D. Protecting the public from personal injury, loss of life or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;

- E. Protecting against publicly financed expenditures in the event environmentally sensitive areas are misused, which causes:
1. Unnecessary maintenance and replacement of public facilities;
  2. Publicly funded mitigation of avoidable impacts;
  3. Cost for public emergency rescue and relief operations where the causes are avoidable; or
  4. Degradation of the natural environment;
- F. Protecting the public trust in navigable waters and aquatic resources;
- G. Preventing adverse impacts to water availability, water quality and streams;
- H. Protecting unique, fragile, and valuable elements of the environment, including wildlife and its habitat;
- I. Alerting appraisers, assessors, owners, potential buyers, or lessees to the development limitations of environmentally sensitive areas;
- J. Providing City officials with sufficient information to adequately protect environmentally sensitive areas when approving, conditioning, or denying public or private development proposals; and
- K. Implementing the policies of the State Environmental Policy Act, Chapter 43.21C RCW; the City of Port Angeles Comprehensive Plan; this Chapter of the Port Angeles Municipal Code; and all updates and amendments, functional plans, and other land use policies formally adopted or accepted by the City of Port Angeles.
- L. Provide protection of environmentally sensitive areas for a period until the City can complete more detailed studies of the environmentally sensitive areas within the City and adopt a comprehensive set of policies pertaining to protection of environmental resources and amend regulations which implement the policies. (Ord. 2979 §1 (part), 2/13/98; Ord. 2918 §1 (part), 6/14/96; Ord. 2656 §1 (part), 11/29/91.)

15.20.030 - Definitions. In addition to definitions contained in Chapter 15.02, the following definitions shall apply. Where definitions exist in both 15.02 and 15.20.030, the definitions in 15.20.030 shall apply.

A. "Beaches and associated coastal drift process areas" means the areas that encompass marine shorelines which contain important sites of material supply, transport and deposition that define the present landforms and natural character of the Port Angeles shoreline.

B. "Buffer" means an undisturbed area adjacent to an environmentally sensitive area that is required to permanently remain in an undisturbed and untouched condition, protect or enhance the environmentally sensitive area and is considered part of the environmentally sensitive area. No building, clearing, grading, or filling is permitted, except for minor maintenance necessary to protect life and property. A buffer is different than a setback.

C. "Clearing and Grading Permit" means the written permission of the City to the applicant to proceed with the act of clearing, grading, filling, and/or drainage which could disturb the land surface.

D. "Critical areas" means any of the following areas, environmentally sensitive areas as defined and described in Chapter 15.20, wetlands as defined and described in Chapter 15.24, shorelines, beaches and associated coastal drift processes as described in Chapter 15.08 and the Port Angeles Shoreline Master Program and their associated buffers.

E. "Environmentally sensitive areas" means any of the following areas and their associated buffers:

1. Aquifer Recharge Areas
2. Streams or stream corridors;
3. Frequently flooded areas;
4. Geologically hazardous areas:
  - a. Erosion hazard areas,
  - b. Landslide hazard areas,
  - c. Seismic hazard areas;

5. Habitat areas for priority species and species of concern and
6. Locally unique features:
  - a. Ravines;
  - b. Marine bluffs;
  - c. Beaches and associated coastal drift processes.

F. "Erosion hazard areas" means those areas containing soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion.

G. "Functions and Values" means the natural processes and intrinsic environmental benefits offered by an environmentally sensitive feature. As examples, a function and an associated environmental value of a marine bluff is to provide materials to shorelines and thereby maintain beaches and spits from erosion, and a function and an associated environmental value of a stream is to provide water that in turn insures the survival of a diversity of flora and fauna.

H. "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological event, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

I. "Habitats of local importance" means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

J. "Habitat Area for Priority Species and Species of Concern" ("Priority species and Species of Concern Habitat") means habitat supporting:

1. fish and wildlife species that are designated by the State to be of concern due to their population status and their sensitivity to habitat alteration; and
2. recreationally important species for which the maintenance of a stable population and surplus for recreation may be affected by habitat loss or change.

K. "Historic Condition" means the condition of the land, including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by human activity.

L. "Landslide hazard areas" means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. The following areas are considered to be subject to landslide hazards:

1. Areas of historic failures or potentially unstable slopes, such as areas mapped within Soils Conservation Service Slide Hazard Area Studies; as unstable by the 1978 Coastal Zone Atlas; and as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources.
2. Any area with a combination of: (a) slopes fifteen percent (15%) or steeper, and (b) impermeable soils (typically silt and clay) frequently interbedded with granular soils (predominantly sand and gravel); and, (c) springs or ground water seepage.
3. Any area potentially unstable as a result of rapid stream incision, stream bank erosion (e.g. ravines) or under-cutting by wave action (e.g. marine bluffs).
4. Areas of potential failure due to over steepening of the slope beyond the in-place soil's ability to resist sliding (slope exceeds angle of repose).

M. "Locally unique features" means landforms and features that are important to the character of the City of Port Angeles and the adjoining Port Angeles Urban Growth Area. These features or landforms usually contain more than one environmentally sensitive area or "critical area". Locally unique features in the Port Angeles region include ravines, marine bluffs, and beaches and associated coastal drift processes.

N. "Mitigation" means taking measures including avoiding, minimizing, and compensating for adverse impacts to an environmentally sensitive area and should be taken in the following order of preference and may include a combination of these measures:

1. Avoiding the impacts altogether by not taking a certain action or parts of an action but still accomplishing the objective of the proposed action;
2. Minimizing the impacts by limiting the degree or magnitude of an action, by using appropriate technology and best management practices, or by taking affirmative action to reduce impacts;
3. Rectifying the impacts of an action by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impacts over time by preservation and maintenance operations during the life of an action;
5. Compensating for the impacts by restoring, enhancing, providing substitute resources, or creating new environments; and
6. Monitoring the impacts and the mitigation and taking appropriate corrective measures.

O. "Riparian habitat" means areas adjacent to aquatic systems with flowing water that contains elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for aquatic and terrestrial-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the flood plain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

P. "Seismic hazard areas" means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

Q. "Setback" means the minimum distance for any use, structure or building from a hazard area as required by a qualified expert as identified in PAMC 15.20.060(B)(4)(b) to protect safety for occupants of a development and/or users of a site.

R. "Stream corridor" means variable width planning area defined by the type of stream or watercourse, or from the top of the bank or dike. Stream corridors include both year-round and seasonal waterways, but vary in width depending on the rating of the stream. If the stream or watercourse is contained within a ravine, the stream corridor may be established using the Locally Unique Feature Corridor. (Ord. 3179 §3 (part), 12/17/2004; Ord. 3071, §2, (part), 12/15/2000; Ord. 2979 §1 (part) 2/12/98; Ord. 2656 §1 (part), 11/26/91)

15.20.040 - Applicability. This Section establishes regulations for the protection of areas which are environmentally sensitive. Areas listed, identified, classified, or rated as environmentally sensitive are those which are or may become designated environmentally sensitive by the City of Port Angeles Comprehensive Plan or by separate studies which indicate that an area is environmentally sensitive. A site specific analysis which indicates that any element regulated by this Chapter is present will result in an area being classified as environmentally sensitive.

A. All development proposals, including enhancement projects, in environmentally sensitive areas shall comply with the requirements and provisions of this Chapter. Responsibility for administration and enforcement of the provisions of this Chapter shall rest with the Director of Community Development or the Director's designee.

B. For the purposes of this Chapter, development proposals include proposals which require any of the following: building permit, clearing and grading permit, shoreline substantial development permit, shoreline conditional use permit, shoreline variance, shoreline environmental redesignation, conditional use permit, zoning variance, zone reclassification, planned residential development, subdivision, short subdivision, or any other land use approvals required by ordinance of the City of Port Angeles or the Revised Code of Washington. Where possible, the City shall attach conditions to development proposals or combine permit decisions to ensure compliance with this Chapter while alleviating duplicate permit decisions.

C. When any provision of any other City ordinance conflicts with this Chapter, that which provides the greatest protection to environmentally sensitive areas shall apply unless specifically provided otherwise in this Chapter.

D. This Chapter applies to all environmentally sensitive areas located on or adjacent to properties within the jurisdiction of the City of Port Angeles. Specific environmentally sensitive features (streams, ravines, marine bluffs, beaches) shall be defined and designated as set forth below. The approximate distribution and extent of environmentally sensitive areas in the City are displayed on the following series of maps on file with the City of Port Angeles Planning Department:

1. Wetland and Hydric Soil Composite Map, as promulgated pursuant to the City's Wetlands Protection Ordinance, Chapter 15.24 PAMC.

2. Environmentally Sensitive Areas Composite Maps, which shall be prepared and revised as necessary from time to time by the Director of Community Development or his designee in accordance with this Chapter. These maps are to be used as a guide to the general location and extent of environmentally sensitive areas. The maps shall be used to alert the public and City officials of the potential presence of environmentally sensitive areas on-site or off-site of a development proposal. Given the generalized nature of these maps and recognizing that environmentally sensitive areas are a dynamic environmental process, the actual presence and location of environmentally sensitive areas, as determined by qualified professional and technical scientists, shall be established and protected in accordance with all the provisions of this Chapter, which shall govern the treatment of proposed development sites. In the event that any of the environmentally sensitive areas shown on the maps conflict with the criteria set forth in this Chapter, the criteria shall control.

E. The exact location of the boundary of an environmentally sensitive area shall be determined through the performance of a field investigation applying the definitions and criteria provided in this Chapter. A qualified professional shall perform delineations of environmentally sensitive area boundaries. For example, in areas where a Class II or Class III Landslide Hazard is suspected, a geotechnical study would be required to specifically identify the nature and extent of the potential hazard. The Director of Community Development, as assisted by other City officials, has final responsibility for the accuracy of the submitted information. The applicant may be required to show the location of the environmentally sensitive area boundary on a scaled drawing as a part of a City permit application.

The Director of Community Development may require the delineation of the environmentally sensitive area boundary by qualified professionals retained by the applicant. Alternatively, the Director of Community Development may retain qualified professional scientists and technical experts or other experts as needed to perform the delineation, in which event the applicant will be charged for the costs incurred in accordance with the provisions of this Chapter.

Where the Director of Community Development approves an environmentally sensitive area delineation, such delineation shall be considered a final determination unless appealed to the Port Angeles City Council.

Where the applicant's qualified professionals have provided a delineation of the environmentally sensitive area boundary the Director of Community Development shall verify the accuracy of and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Director of Community Development shall, at the applicant's expense, obtain a qualified professional to render a final delineation.

Decisions of the Director of Community Development in applying this Chapter may be appealed to the City Council per Section 15.20.110 of this Chapter. (Ord. 3179 §3 (part), 12/17/2004; Ord. 3071, §2(part), 12/15/2000; Ord. 2979 §1 (part) 2/13/98; Ord. 2656 §1 (part), 11/29/91.)

15.20.050 - Permitted Uses and Development Restrictions.

A. Permitted Uses. Uses permitted on properties which contain an area classified as environmentally sensitive shall be the same as those permitted in the underlying zone. Each use shall be evaluated in accordance with the review process required for the proposed use in the underlying zone in conjunction with the requirements of this Chapter, State and Federal regulations. Nothing in this Chapter is intended to preclude reasonable use of property. If an applicant feels that the requirements of this Chapter as applied to a specific lot or parcel of land do not permit a reasonable use of property, the applicant may request that the Director of Community Development make a determination as to what constitutes reasonable use of such property. Any decision of the Director of Community Development in making such a determination shall be subject to the appeal provisions set forth in Section 15.20.110 of this Chapter, and the burden of proof in such an appeal shall be upon the appellant to prove that the determination of reasonable use made by the Director of Community Development is incorrect.

B. Development Restrictions.

1. The following environmentally sensitive areas shall remain undisturbed except as otherwise provided in Section 15.20.080, Development Exceptions:

- a. Significant and important wetlands and their buffers, pursuant to the regulations presented in the City's Wetlands Protection Ordinance, Chapter 15.24 PAMC.
- b. Surface Streams and their buffers, pursuant to Section 15.20.070 of this Chapter.
- c. Ravines, marine bluffs and their buffers, pursuant to Section 15.20.070 of this Chapter.
- d. Beaches and associated coastal drift processes pursuant to Section 15.20.070 of this Chapter.

2. All other environmentally sensitive areas identified above in PAMC 15.20.030B are developable pursuant to the provisions of Section 15.20.070 of this Chapter. The applicant shall clearly and convincingly demonstrate to the satisfaction of the Director of Community Development that the proposal incorporates measures pursuant to this Chapter which adequately protect the public health, safety and welfare. (Ord. 2979 §1 (part), 2/13/98; Ord. 2656 §1 (part), 11/29/91.)

15.20.060 - Submittal Requirements and Support Information Required.

A. Submittal Requirements Applications for land uses or developments proposed within areas listed, identified, inventoried, classified, rated, or otherwise determined to be environmentally sensitive or which have been so determined by the Director of Community Development based upon a site specific analysis or such other information supplied which supports the finding that a site or area is likely to contain environmentally sensitive characteristics, shall be filed with all the information requested on the application forms available from the Planning Division. The Director of Community Development may waive specific submittal requirements determined to be unnecessary for review of a specific application type. The applicant shall provide the information necessary for the Planning Division to determine if and to what extent the site contains environmentally sensitive characteristics. The Director of Community Development shall make the determination to classify an area as environmentally sensitive pursuant to the procedures set forth in PAMC 15.20.040E.



B. Supporting Information Required. All land uses and developments proposed in an area listed, identified, inventoried, classified, or rated as environmentally sensitive shall include supporting studies, prepared to describe the environmental limitations of the site. No construction activity, including clearing or grading, shall be permitted until the information required by this Chapter is reviewed and approved by the City as adequate. Special environmental studies shall include a comprehensive site inventory and analysis, a discussion of the potential impacts of the proposed development, and specific measures designed to mitigate any potential adverse environmental impacts of the applicant's proposal, both on-site and off-site, as follows:

1. A description of how the proposed development will or will not impact each of the following;
  - a. Erosion hazards;
  - b. Landslide hazards;
  - c. Seismic hazards;
  - d. Drainage, surface and subsurface hydrology, and water quality;
  - e. Flood prone areas;
  - f. Existing vegetation as it relates to steep slopes, soil stability, and natural habitat value (for wetlands, refer to Chapter 15.24 PAMC);
  - g. Locally unique landforms: ravines, marine bluffs, beaches and associated coastal drift processes;
2. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent areas.
3. Any additional information determined to be relevant by the City or by the professional consultant who prepared the study.
4. Such studies shall be prepared with assistance by qualified professionals in the area of concern, which at a minimum shall include the following types of experts:
  - a. Flood hazard areas: Professional Civil Engineer licensed by the State of Washington;
  - b. Erosion Hazard Areas, Landslide Hazard Areas, and Seismic Hazard Areas: Geologist and/or Civil Engineer with Geotechnical expertise;
  - c. Wetlands: Biologist with wetlands ecology expertise;
  - d. Streams, Rivers, Riparian Areas, Drainage Corridor, Ravine: Geologist or Civil Engineer with Geotechnical expertise;
  - e. Marine Bluffs, Beaches: Geologist, Civil Engineer with Geotechnical expertise, or Oceanographer;
  - f. Fish and Wildlife Habitats: Biologist with freshwater and/or marine habitat ecology expertise.

C. Environmentally Sensitive Area Reports - Requirements.

1. Prepared by qualified professional. The applicant shall submit an environmentally sensitive area report prepared by a qualified professional as defined herein.
2. Incorporating best available science. The environmentally sensitive area report shall use scientifically valid methods and studies in the analysis of environmentally sensitive area data and field reconnaissance and reference the source of science used. The environmentally sensitive area report shall evaluate the proposal and all probable impacts to environmentally sensitive areas in accordance with the provisions of this Title.
3. Minimum report contents. At a minimum, the report shall contain the following:
  - a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
  - b. A copy of the site plan for the development proposal showing:
    - i. Identifies environmentally sensitive areas, buffers, and the development proposal with dimensions;
    - ii. Limits of any areas to be cleared; and a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

- c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
  - d. Identification and characterization of all environmentally sensitive areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
  - e. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
  - f. An assessment of the probable cumulative impacts to environmentally sensitive areas resulting from the proposed development;
  - g. An analysis of site development alternatives;
  - h. A description of reasonable efforts made to apply mitigation sequencing pursuant to *Mitigation Sequencing* [Section 15.20.080(I)(3)(d)] to avoid, minimize, and mitigate impacts to environmentally sensitive areas;
  - i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with *Mitigation plan requirements* [Section 15.20.080(I)(3)], including, but not limited to:
    - i. The impacts of any proposed development within or adjacent to a environmentally sensitive area or buffer on the environmentally sensitive area; and
    - ii. The impacts of any proposed alteration of an environmentally sensitive area or buffer on the development proposal, other properties and the environment;
  - j. A discussion of the performance standards applicable to the environmentally sensitive area and proposed activity;
  - k. Financial guarantees to ensure compliance; and
  - l. Any additional information required for the environmentally sensitive area as specified in the corresponding Chapter.
4. Unless otherwise provided, an environmentally sensitive area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approve by the Director of Community Development.
- D. Environmentally Sensitive Area Report - Modifications to Requirements.
- 1. Limitations to study area. The Director of Community Development may limit the required geographic area of the environmentally sensitive area report as appropriate if:
    - a. The applicant, with assistance from the City cannot obtain permission to access properties adjacent to the project area; or
    - b. The proposed activity will affect only a limited part of the subject site.
  - 2. Modifications to required contents. The applicant may consult with the Director of Community Development prior to or during preparation of modification to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential environmentally sensitive area impacts and required mitigation.
  - 3. Additional information may be required. The Director of Community Development may require additional information to be included in the environmentally sensitive area report when determined to be necessary to the review of the proposed activity in accordance with this Title. Additional information that may be required, includes, but is not limited to:
    - a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
    - b. Grading and drainage plans; and
    - c. Information specific to the type, location, and nature of the environmentally sensitive area.

D. City Review.

1. The City may in some cases retain consultants at the applicant's expense to assist the review of studies outside the range of staff expertise.
2. All environmentally sensitive studies shall be prepared under the supervision of the City. The Director of Community Development will make the final determination on the adequacy of these studies. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2979 §1 (part), 2/13/98; Ord. 2656 §1 (part), 11/29/91.)

15.20.070 - Development Standards.

A. Streams. All areas falling within the corridors identified in the following subsection are subject to the requirements of this Chapter.

1. Stream Corridors. This subsection defines corridor dimensions for different classes of streams and their tributaries as rated pursuant to WAC 222-16-020 and -030. All areas falling within a corridor are subject to review under this Chapter unless excluded by the Director of Community Development. Dimensions are measured from the seasonal high water mark or elevation of the stream or watercourse as follows:

Type 1	250 feet;
Type 2	250 feet;
Type 3	150 feet;
Type 4	100 feet;
Type 5	none.

Should the stream be located within a ravine, the greater dimension of either the stream corridor, or the ravine corridor, will be used to define areas subject to the requirements of this Chapter.

2. Stream Buffers. Any development or construction adjacent to a stream shall preserve a buffer which is wide enough to maintain the natural hydraulic and fish and wildlife habitat functions of that stream. The following buffers of undisturbed native vegetation shall be provided for different classes of streams and their tributaries as rated pursuant to WAC 222-16-020 and -030. Dimensions are measured from the ordinary high water mark or elevation of the stream or watercourse, or from the top of the bank or dike:

Type 1	100 feet
Type 2	100 feet
Type 3	75 feet
Type 4	50 feet
Type 5	none.

3. Stream corridors and buffers shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish.

4. Additional Buffers. The Director of Community Development may require either additional native vegetation or increased buffer sizes when environmental information indicates the necessity for additional vegetation or greater buffers in order to achieve the purposes of this Chapter. In cases where additional buffers are not feasible, the Director of Community Development may require the applicant to undertake alternative on-site or off-site mitigation measures, including but not limited to a financial contribution to projects or programs which seek to improve environmental quality within the same watershed.

B. Locally Unique Feature - Ravines, Marine Bluffs and Beaches and Associated Coastal Drift Processes. All areas falling within the corridors identified in the following subsection are subject to the requirements of this Chapter.

1. Locally Unique Feature Corridors: The following corridors, as measured from the top of ravines, the top and toe of marine bluffs, and beaches, define areas subject to the requirements of this Chapter, unless excluded by the Director of Community Development:

Ravines	200 feet;
Marine Bluffs	200 feet;
Beaches and Associated Coastal Drift Processes	Shoreline Management Jurisdiction.

Should locally unique feature corridors also overlay stream corridors, the criteria of this Section will be used.

2. Buffers. The following buffers of undisturbed vegetation shall be established from the top of ravines; the top and toe of marine bluffs and ravines:

Ravines	25 feet;
Marine Bluffs	50 feet;
Beaches and Associated Coastal Drift Processes	Per the City's Shoreline Master Program as adopted by

PAMC 15.08.040.

3. Undisturbed buffers adjoining both marine bluffs and beaches shall be sufficient to assure that natural coastal drift processes will remain unimpaired.

4. Buffer Reduction. The buffer may be reduced when expert verification and environmental information demonstrate to the satisfaction of the Director of Community Development that the proposed construction method will:

- a. Not adversely impact the stability of ravine sidewalls and bluffs;
- b. Not increase erosion and mass movement potential of ravine sidewalls and bluffs;
- c. Use construction techniques which minimize disruption of the existing topography and vegetation; and
- d. Include measures to overcome any geological, soils and hydrological constraints of the site.

5. Additional Buffers. The Director of Community Development may require either additional native vegetation or increased buffer sizes when environmental information indicates the necessity for additional vegetation or greater buffers in order to achieve the purposes of this Chapter. In cases where additional buffers are not feasible, the Director of Community Development may require the applicant to undertake alternative on-site or off-site mitigation measures, including but not limited to a substitute fee per Section 15.20.080(I)(2)(C) for projects or programs which seek to improve environmental quality within the same watershed.

6. Viewshed enhancement. In ravine and marine bluff buffers, the Director of Community Development may approve alterations in vegetation coverage for the purposes of viewshed enhancement, so long as such alterations will not:

- a. increase geological hazards such as erosion potential, landslide potential, or seismic hazard potential.
- b. adversely affect significant fish and wildlife habitat areas.
- c. remove by thinning more than 30% of the live crown of a tree.
- d. include felling, topping, or removal of trees.

The landowner shall replace any trees that are felled or topped with new trees at a ratio of two trees for each tree felled or topped (2:1) within one (1) year in accordance with an approved restoration plan. Tree species that are native and indigenous to the site and a minimum caliper of two (2) inches shall be used.

C. Geological Hazard (Erosion, Landslide, Seismic) Areas. Areas containing or adjacent to geological hazard areas shall be altered only when the Director of Community Development concludes, based on environmental information, the following:

1. For Landslide hazard areas:
  - a. That the land clearing, grading or filling activities will adhere to the best management practices.
  - b. That the vegetation in erosion hazard areas will be preserved or replaced.

2. There will be no increase in surface water discharge or sedimentation to adjacent properties;

a. There will be no decrease in slope stability on adjacent properties; and

b. Either:

i. There is no hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties;

ii. The landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard is eliminated or mitigated so that the site is as safe as a site without a landslide hazard; or

iii. The alteration is so minor as not to pose a threat to slope stability.

3. For Seismic hazard areas:

a. There is no actual hazard based on a lack of seismic activity in the past in the area of the development proposal, and a quantitative analysis of potential for seismic activity indicates no significant risk to the development proposal; or

b. The development proposal can be designed so that it will minimize any risk of harm from seismic activity to public health, safety or welfare on or off the site.

c. Construction on artificial fills is certified by a civil engineer with geotechnical expertise as safe from earthquake damage as a similar development not located on artificial fill. This requirement may be waived for actions involving minor changes, alterations or additions to developed properties, provided that such activities do not jeopardize public health, safety or welfare on or off the site.

4. Geological Hazard Area Setbacks: In the event that it is determined that a geological hazard area is unstable and cannot be safely developed and must remain as permanent open space, setbacks from hazard areas shall be required as necessary to mitigate erosion, landslide, and seismic hazards, or as otherwise necessary to protect the public health, safety, and welfare of the occupants of a development and/or the users of a site and shall be determined by qualified professionals as prescribed in PAMC 15.20.060(B)(4).

D. Priority Species and Species of Concern Habitat Areas. To protect the habitat of species which are designated by the State to be priority species or species of concern and thereby maintain and increase their populations, priority species and species of concern habitat areas shall be subject to the following:

1. When a development proposal contains a priority species or species of concern habitat, the applicant shall submit a habitat management plan. The need for a Habitat Management Plan should be determined during State Environmental Policy Act (SEPA) review of the proposal. The habitat management plan should identify how the impacts from the proposed project will be mitigated. Possible mitigation measures should include, but are not limited to: (a) establishment of buffer zones; (b) preservation of critically important plants and trees, (c) limitation of access to habitat area, (d) scheduling construction activities to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities; (e) using best available technology to avoid or reduce impacts; (f) using drainage and erosion control measures to prevent siltation of aquatic areas; and (g) reducing the size, scope, configuration or density of the project.

2. Buffer: To retain adequate natural habitat for priority species, buffers shall be established on a case-by-case basis as described in a habitat management plan.

3. Uses and activities allowed within a priority species or species of concern habitat area as identified by a habitat management plan shall be limited to low intensity land uses which will not adversely affect or degrade the habitat and which will not be a threat to the critical ecological processes such as feeding, breeding, nesting and resting.

E. Frequently Flooded Areas. Development in frequently flooded areas which are not subject to the standards of other environmentally sensitive areas, including wetlands, will be directed by Chapter 15.12 "Flood Hazard Areas" of the City of Port Angeles Municipal Code.

F. Limited Density Transfer. The calculation of potential dwelling units in residential development proposals and allowable floor area in non-residential development proposals shall be determined by the ratio of developable area to undisturbable environmentally sensitive area of the development site except as otherwise provided for wetlands in the City's Wetlands Protection Ordinance, Chapter 15.24 PAMC. The following formula for density and floor area calculations is designed to provide compensation for the preservation of environmentally sensitive areas, flexibility in design, and consistent treatment of different types of development proposals.

1. Formulas. The maximum number of dwelling units (DU) for a site which contains undisturbable environmentally sensitive areas is equal to:

$$\frac{[(\text{Developable Area}) \text{ divided by } (\text{Minimum Lot Area/DU})] + [(\text{Undisturbable Area}) \text{ divided by } (\text{Minimum Lot Area/DU}) (\text{Development Factor})]}{1} = \text{Maximum Number of Dwelling Units.}$$

The maximum amount of non-residential floor area for a site which contains undisturbable environmentally sensitive areas is equal to:

$$\frac{[(\text{Maximum Permitted Floor Area/Lot Area})(\text{Developable Area})] + [(\text{Maximum Permitted Floor Area/Lot Area}) (\text{Undisturbable Area}) (\text{Development Factor})]}{1} = \text{Maximum Amount of Floor Area.}$$

Environmentally sensitive areas which are to be disturbed shall receive full credit towards calculating the number of dwelling units or floor area.

2. Development Factor. As used in the preceding Subsection, the development factor is a number to be used in calculating the number of dwelling units or the maximum allowable floor area for a site which contains undisturbable environmentally sensitive areas. The development factor is derived from the following table:

<u>Undisturbable Sensitive Area</u> <u>as Percentage of Site</u>	<u>Development Factor</u>
1 - 10	.30
11 - 20	.27
21 - 30	.24
31 - 40	.21
41 - 50	.18
51 - 60	.15
61 - 70	.12
71 - 80	.09
81 - 90	.06
91 - 99	.03

(Ord. 3179 §3 (part), 12/17/2004; Ord. 3071, §2 (part), 12/15/2000; Ord. 2979 §1 (part) 2/13/98; Ord. 2918 §1 (part) 6/14/96; Ord. 2656 §1 (part), 11/29/91.)

15.20.080 - Development Exceptions. Exceptions to the development restrictions and standards set forth in Sections 15.20.050 and 15.20.070 may be permitted by application to the Director of Community Development pursuant to the provisions of this Section.

A. Reasonable Use Development Exceptions in Stream and Locally Unique Feature Corridors.

1. Development Proposals. An applicant may propose a reasonable use development exception pursuant to the following decision criteria:

a. The proposal is limited to the minimum necessary to fulfill reasonable use of the property, and there is no other reasonable alternative;

b. The proposal is compatible in design, scale, and use with other development or potential development in the immediate vicinity of the subject property in the same zone classification and with similar site constraints;

c. The proposal utilizes to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the environmentally sensitive area or areas;

d. The proposal incorporates all other development standards of Section 15.20.070; and

e. The proposal is consistent with the purpose and intent of this Chapter.

f. When the functions and values of the environmentally sensitive area will be disrupted, the applicant has prepared a mitigation plan per Subsection I.3.

2. Minor Additions to and Modifications of Existing Structures. Existing structures or improvements that do not meet the requirements of this Chapter may be remodeled, reconstructed or replaced provided that the new construction does not further disturb an environmentally sensitive area.

3. Previously Altered Environmentally Sensitive Areas. If any portion of an environmentally sensitive area has been altered from its natural state, the applicant may propose to develop within the altered area pursuant to the following decision criteria:

a. The environmentally sensitive area was lawfully altered in accordance with the provisions of this Chapter and any state and federal laws at the time the alteration occurred;

b. The previous alteration has significantly disrupted the natural functions and values of the environmentally sensitive area;

c. The new alteration does not further disrupt the natural functions and values of the environmentally sensitive area;

d. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least adverse impact on the environmentally sensitive area;

e. The proposal incorporates all other development standards of Section 15.20.070, and

f. The proposal is consistent with the purpose and intent of this Chapter.

4. Vegetation management practices may allow the following:  
a. Nondestructive pruning and trimming of vegetation for maintenance purposes;

b. thinning of limbs of individual trees to provide for viewshed enhancement; or

c. removal of nonnative vegetation and replacement with native vegetation; provided that increased erosion, landslide, or other adverse impacts to the environmentally sensitive areas do not result.

5. If the Director of Community Development determines that a reasonable use exception may be granted, the applicant shall sign a waiver indemnifying the City from any liability due to damages that could result from location of the development in or near an environmentally sensitive area.

6. Alternatively, if the Director of Community Development determines that application of these standards would deny all reasonable economic use of the property, the City may take the property for public use with just compensation being made.

B. Emergencies. The Director of Community Development may approve improvements or alterations that are necessary to respond to emergencies that threaten the health and safety, when he/she determines that no reasonable alternative exists and the benefit outweighs the loss. Emergencies shall be verified by qualified experts as prescribed in PAMC 15.20.060(B)(4).

C. Drainage Facilities. Streams and their buffers may be altered for use as a drainage facility provided that all requirements of the City of Port Angeles Stormwater Management Plan and all other local, state, and federal laws are satisfied, and so long as increased and multiple natural resource functions are achievable and the benefits outweigh any lost resource. The Director of Community Development may approve drainage facilities in a stream only where he/she determines that long-term impacts are minimal or where there are no practicable or reasonable alternatives and mitigation is provided.

D. Trails and Trail-Related Facilities. Public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, and viewing platforms shall be allowed, but use of impervious surface shall be minimized. Trails and trail-related facilities shall be avoided within stream channels. The Director of Community Development may approve such trails and facilities only when he/she determines that there is no practicable or reasonable upland alternative. Trail planning, construction and maintenance shall adhere to the following additional criteria:

1. Trails and related facilities shall, to the extent feasible, be placed on existing levies, road grades, utility corridors, or any other previously disturbed areas;
2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
3. Trail construction and maintenance shall follow the U.S. Forest Service "Trails Management Handbook" (FSH 2309.18, June 1987) and "Standard Specifications for Construction of Trails" (EM-7720-102, June 1984) as may be amended, or trail standards adopted by the City of Port Angeles;
4. Viewing platforms, interpretive centers, picnic areas, benches and access to them shall be designed and located to minimize disturbance;
5. Trails and related facilities shall provide water quality protection measures to assure that runoff from them does not directly discharge to wetlands or streams; and
6. Within buffers, trails and trail-related facilities shall be aligned and constructed to minimize disturbance to stream functions and values.

E. Utilities. Every attempt shall be made to avoid locating utilities within streams. The Director of Community Development may approve utilities in streams only when he/she determines that there is no practicable or reasonable upland alternative.

F. Stream Crossings. Stream crossings, whether for access or utility purposes, shall be avoided to the extent possible; but when necessary due to the lack of feasible alternatives, crossing of streams shall follow all applicable local, state and federal laws and the following criteria:

1. Bridges are required for streams which support salmonids, unless otherwise allowed by the Washington State Department of Fisheries;
2. All crossings using culverts shall use superspan or oversize culverts;
3. Any work within the stream channel shall be constructed and installed per the requirements of an applicable State hydraulics permit;
4. No work within the stream channel shall occur in salmonid spawning areas;
5. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
6. Crossings shall not diminish flood-carrying capacity;
7. Crossings shall provide for maintenance of culverts, bridges and utilities; and
8. Crossings shall serve multiple properties whenever possible.

G. Time Limitation. A development exception automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within one year of the effective date of the development exception, unless either:

1. The applicant has received an extension for the development exception pursuant to Subsection H of this Section;
2. The development exception approval provides for a greater time period.

H. Time Extension. The Director of Community Development may extend a development extension, not to exceed one year, if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception;
2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas.



I. Mitigation. For any allowable development exception provided under this Section, the following restoration and compensation mitigation measures to minimize and reduce impacts to environmentally sensitive areas shall be required, and a mitigation plan per Subsection I.3 of this Section shall be completed and must be approved by the Director of Community Development prior to development approval:

1. Restoration. Restoration is required when the functions and values of environmentally sensitive areas have been disrupted by alteration prior to development approval.

2. Compensation. Compensation is required from developers for all approved alterations to environmentally sensitive areas. Compensation required for specific development standards shall include, but is not limited to, the following:

a. Streams

i. The applicant shall maintain or improve stream channel dimensions, including depth, length, and gradient; restore or improve native vegetation and fish and wildlife habitat; and create an equivalent or improved channel bed, biofiltration and meandering.

ii. The Director of Community Development may postpone or limit development, require bonds pursuant to Section 15.20.100, or use other appropriate techniques to ensure the success of the mitigation plan. The decision of the Director of Community Development to postpone or limit development may be appealed per Section 15.20.110.

b. Beaches and Coastal Drift Processes

i. The applicant shall restore, enhance, or create the beach and associated coastal drift processes per the City's Shoreline Master Program as adopted by PAMC .

ii. The Director of Community Development may postpone or limit development, require bonds pursuant to Section 15.20.100, or use other appropriate techniques to ensure the success of the mitigation plan. The decision of the Director of Community Development to postpone or limit development may be appealed per Section 15.20.110.

c. Substitute Fees. In cases where the applicant demonstrates to the satisfaction of the Director of Community Development that a suitable compensation site does not exist, the Director of Community Development may allow the applicant to make a financial contribution to an established environmental project or program. The project or program must improve environmental quality within the Port Angeles Regional watershed. The amount of the fee must be equal to the cost of mitigating the impact of stream or shoreline alteration and must be approved by the Director of Community Development.

3. Mitigation Plans. All restoration and compensation required for development exceptions shall follow a mitigation plan prepared by qualified professional experts as prescribed in PAMC 15.20.060(b)(4) containing the following components:

a. Baseline Information. Quantitative data shall be collected and analyzed for both the impacted environmentally sensitive area and the proposed mitigation site, if different from the impacted environmentally sensitive area, following procedures approved by the Director of Community Development;

b. Environmental Goals and Objectives. Goals and objectives describing the purposes of the mitigation measures shall be provided, including a description of site selection criteria, identification of target evaluation species and resource functions;

c. Performance Standards. Specific criteria for fulfilling environmental goals and objectives, and for beginning remedial action or contingency measures shall be provided, including water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

d. Detailed Construction Plan. Written specifications and descriptions of mitigation techniques shall be provided, including the proposed construction sequence, accompanied by detailed site diagrams and blueprints that are an integral requirement of any development proposal.

e. **Monitoring Program.** A program outlining the approach for assessing a completed project shall be provided, including descriptions or proposed experimental and control site survey or sampling techniques. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the mitigation project. A report shall be submitted at least twice yearly documenting milestones, successes, problems and contingency actions of the restoration or compensation project. The Director of Community Development shall require that the applicant monitor the compensation or restoration project for a minimum of two years.

f. **Contingency Plan.** A plan shall be provided fully identifying potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

g. **Performance and Maintenance Securities.** Securities ensuring fulfillment of the mitigation project, monitoring program and any contingency measures shall be posted pursuant to Section 15.20.100.

4. **Final Approval.** The Director of Community Development shall grant final approval of a completed restoration or compensation project if the final report of the project mitigation plan satisfactorily documents that the area has achieved all requirements of this section. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2972 §1 (part), 2/13/98; Ord. 2915 §1 (part), 6/14/96; Ord. 2656 §1 (part), 11/29/91.)

15.20.090 - Sensitive Area Tracts. As a condition of any permit issued pursuant to this Chapter, the permit holder may be required to create a separate sensitive area tract or tracts containing the areas determined to be environmentally sensitive in field investigations performed pursuant to Subsection 15.20.040(E). Sensitive area tracts are legally created tracts containing environmentally sensitive features and their buffers that shall remain undisturbed in perpetuity. Sensitive area tracts are an integral part of the lot in which they are created, are not intended for sale, lease or transfer, and shall be included in the area of the parent lot for purposes of subdivision method and zoning regulations.

A. Legal Protection of Sensitive Area Tracts. When the Director of Community Development requires the creation of a sensitive area tract as a condition of any permit issued pursuant to this Chapter, the sensitive area tract or tracts shall be protected by one of the following methods to be determined by the Director of Community Development:

1. **Easement.** The permit holder shall convey an irrevocable offer to dedicate to the City of Port Angeles, or other public or non-profit entity specified by the Director of Community Development, an easement for the protection of the environmentally sensitive area; or

2. **Deed Restriction.** The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of all lots containing a sensitive area tract or tracts created as a condition of any permit. Such deed restriction(s) shall prohibit in perpetuity the development, alteration, or disturbance of vegetation within the sensitive area tract, except for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from the City of Port Angeles and any other agency with jurisdiction over such activity. The deed restriction shall also contain the following language:

"Before, beginning, and during the course of any grading, building construction, or other development activity on a lot or development site subject to this deed restriction, the common boundary between the area subject to the deed restriction and the area of development activity must be fenced or otherwise marked to the satisfaction of the City of Port Angeles".

3. **Additional Note.** The following note shall appear on the face of all plats, short plats, PRDs, or other approved site plans containing separate sensitive area tracts and shall be recorded on the title of record for all affected lots:

**"NOTE:** All owners of lots adjoining separate sensitive area tracts identified as sensitive area easements or protected by deed restriction are responsible for maintenance and protection of the tracts. Maintenance includes ensuring that no alterations occur within the separate tract and that all vegetation remains undisturbed for other than natural reasons, unless the express written authorization of the City of Port Angeles has been received."

B. Identification of Sensitive Area Tracts. The common boundary between a separate sensitive area tract and the adjacent land must be permanently identified.

1. Signs. Identification shall include permanent signs available at the Planning Division on treated or metal posts. Sign locations, wording, and size specifications shall be approved by the Director of Community Development.

2. Fencing. The Director of Community Development may require permanent fencing for the purpose of delineating the sensitive area tract or tracts.

C. Maintenance of Sensitive Area Tracts. Responsibility for maintaining sensitive area tracts shall be held by either the property owner, a homeowners' association, adjacent lot owners, the permit applicant or designee, or other appropriate entity as approved by the Director of Community Development. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2979 §1 (part), 2/13/98; Ord. 2656 §1 (part), 11/29/91)

#### 15.20.100 - Securities and Enforcement.

A. Performance Securities. The Director of Community Development may require the applicant of a development proposal to post a cash performance bond or other acceptable security to guarantee that the applicant will properly construct all structures and improvements required by this Chapter. The security shall guarantee that the work and materials used in construction are free from defects. All securities shall be on a form approved by the Director of Community Development. Until written release of the security, the security may not be terminated or canceled. The Director of Community Development shall release the security upon determining that all structures and improvements have been satisfactorily constructed and upon the posting by the applicant of a maintenance security if one is required.

B. Maintenance Securities. The Director of Community Development may require the applicant to post a cash maintenance bond or other acceptable security guaranteeing that structures and improvements required by this chapter satisfactorily perform for a minimum of two years. This requirement shall also apply in the case of required mitigation improvements. All securities shall be on a form approved by the Director of Community Development. Until written release of the security, the principal or surety may not be terminated or canceled. The Director of Community Development shall release the security upon determining that performance standards established for evaluating the effectiveness and success of the structures and improvements have been satisfactorily met. The performance standards shall be approved by the Director of Community Development and contained in the mitigation plan developed and approved during the review process.

C. Renewable Bonds. Any bonds required by this Section may be in the form of one-year bonds to be renewed as appropriate.

D. Enforcement. Violations of this Chapter shall be subject to the enforcement provisions of the Port Angeles Municipal Code. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2979 §1 (part), 2/13/98; Ord. 2656 §1 (part), 11/29/91.)

#### 15.20.110 - Appeals.

A. Any person aggrieved by the decision of the Director of Community Development may appeal the decision to the City Council.

B. Appeals shall be submitted to the Planning Division in writing within fourteen (14) days following the date of notification of the decision.

C. The City Council shall conduct an open record public hearing on the appeal of the Director of Community Development's decision with notice being given for the time, place, and purpose of the hearing at least fifteen (15) days prior to the date of the public hearing by publishing in the City's officially designated newspaper, by posting the subject property in a conspicuous manner, and by mailing to the latest recorded real property owners within at least 300 feet of the boundary of the subject site as shown by the records of the County Assessor.

D. The City Council's decision shall be final unless appealed to Clallam County Superior Court within twenty-one (21 ) days of such decision. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2979 §1 (part), 2/13/98)

Chapter 15.24

WETLANDS PROTECTION

Sections:

- 15.24.010 Findings of Fact and Purpose.
- 15.24.020 Definitions.
- 15.24.030 General Provisions.
- 15.24.040 Lands to Which this Chapter Applies.
- 15.25.045 Wetlands Functional Assessment.
- 15.24.050 Regulated Activities and Allowed Activities.
- 15.24.060 Procedures for Wetland Permits.
- 15.24.070 Standards for Permit Decisions.
- 15.24.080 Temporary Emergency Permit - Enforcement.
- 15.24.090 Non-Conforming Activities.
- 15.24.100 Judicial Review
- 15.24.110 Amendments.
- 15.24.120 Assessment Relief.

15.24.010 - Findings of Fact and Purpose.

- A. Findings of Fact. The City Council of the City of Port Angeles hereby finds that:
1. Wetlands and their buffer areas are valuable and fragile natural resources with significant development constraints due to flooding, erosion, soil liquefaction potential, and septic disposal limitations.
  2. In their natural state, wetlands provide many valuable social services and ecological functions, including:
    - a. controlling flooding and stormwater runoff by storing or regulating natural flows;
    - b. protecting water resources by filtering out water pollutants, processing biological and chemical oxygen demand, recycling and storing nutrients, and serving as settling basins for naturally occurring sedimentation;
    - c. providing areas for groundwater recharge;
    - d. preventing shoreline erosion by stabilizing the substrate;
    - e. providing habitat areas for many species of fish, wildlife, and vegetation, many of which are dependent on wetlands for their survival, and some of which are on Washington State and Federal Endangered Species lists;
    - f. providing open space and visual relief from intense development in urbanized areas;
    - g. providing recreation opportunities; and
    - h. serving as areas for scientific study and natural resource education.
  3. Development in wetlands results in:
    - a. increased soil erosion and sedimentation of downstream water bodies, including navigable channels;

- b. increased shoreline erosion;
  - c. degraded water quality due to increased turbidity and loss of pollutant removal processes;
  - d. elimination or degradation of wildlife and fisheries habitat;
  - e. loss of fishery resources from water quality degradation, increased peak flow rates, decreased summer low flows, and changes in the streamflow regimen;
  - f. loss of stormwater retention capacity and slow-release detention resulting in flooding, degraded water quality, and changes in the streamflow regimen of watersheds;
  - g. loss of groundwater recharge areas.
- 4. Buffer areas surrounding wetlands are essential to maintenance and protection of wetland functions and values. Buffer areas protect wetlands from degradation by:
  - a. stabilizing soil and preventing erosion;
  - b. filtering suspended solids, nutrients, and harmful or toxic substances;
  - c. moderating impacts of stormwater runoff;
  - d. moderating system microclimate;
  - e. protecting wetland wildlife habitat from adverse impacts;
  - f. maintaining and enhancing habitat diversity and/or integrity;
  - g. supporting and protecting wetlands plant and animal species and biotic communities; and
  - h. reducing disturbances to wetland resources caused by intrusion of humans and domestic animals.
- 5. The loss of the social services and ecological functions provided by wetlands results in a detriment to public safety and welfare; replacement of such functions, if possible at all, can require considerable public expenditure.
- 6. A considerable acreage of these important natural resources has been lost or degraded by draining, dredging, filling, excavating, building, polluting, and other acts inconsistent with the natural uses of such areas. Remaining wetlands are in jeopardy of being lost, despoiled, or impaired by such acts.
- 7. It is therefore necessary for the City of Port Angeles to ensure maximum protection for wetland areas by discouraging development activities in wetlands and those activities at adjacent sites that may adversely affect wetland functions and values; to encourage restoration and enhancement of already degraded wetland systems; and to encourage creation of new wetland areas.
- B. Purpose. It is the policy of the City of Port Angeles to require site planning to avoid or minimize damage to wetlands wherever possible; to require that activities not dependent upon a wetland location be located at upland sites; and to achieve no net loss of wetlands by requiring restoration or enhancement of degraded wetlands or creation of new wetlands to offset losses which are unavoidable.
- In addition, it is the intent of the City of Port Angeles that activities in or affecting wetlands not threaten public safety, cause nuisances, or destroy or degrade natural wetland functions and values by:
  - 1. impeding flood flows, reducing flood storage capacity, or impairing natural flood control functions, thereby resulting in increased flood heights, frequencies, or velocities on other lands;

2. increasing water pollution through location of domestic waste disposal systems in wetlands; unauthorized application of pesticides and herbicides; disposal of solid waste at inappropriate sites; creation of unstable fills, or the destruction of wetland soils and vegetation;
3. increasing erosion;
4. decreasing breeding, nesting, and feeding areas for many species of waterfowl and shorebirds, including those rare and endangered;
5. interfering with the exchange of nutrients needed by fish and other forms of wildlife;
6. decreasing habitat for fish and other forms of wildlife;
7. adversely altering the recharge or discharge functions of wetlands, thereby impacting groundwater or surface water supplies;
8. significantly altering wetland hydrology and thereby causing either short- or long-term changes in vegetational composition, soils characteristics, nutrient cycling, or water chemistry;
9. destroying sites needed for education and scientific research, such as outdoor biophysical laboratories, living classrooms, and training areas;
10. interfering with public rights in navigable waters and the recreation opportunities provided by wetlands for fishing, boating, hiking, birdwatching, photography, and other passive uses; or
11. destroying or damaging aesthetic and property values, including significant public viewsheds.

The purposes of this Chapter are to protect the public health, safety, and welfare by preventing the adverse environmental impacts of development enumerated in Section 15.24.010, and by:

1. preserving, protecting, and restoring wetlands by regulating development within them and their buffers;
2. protecting the public against losses from:
  - a. unnecessary maintenance and replacement of public facilities, including the dredging of ports and navigation channels;
  - b. publicly funded mitigation of avoidable impacts;
  - c. cost for public emergency rescue and relief operations; and
  - d. potential litigation from improper construction practices authorized for wetland areas;
3. alerting appraisers, assessors, owners, and potential buyers or lessees to the development limitations of wetlands;
4. providing City of Port Angeles officials with information to evaluate, approve, condition, or deny public or private development proposals;
5. adopting the Governor's interim goal of achieving no overall net loss in acreage and functions of Washington's remaining wetland base and the long-term goal of increasing the quantity and quality of Washington's wetland resource base;

6. implementing the goals and policies of the City of Port Angeles Comprehensive Plan encouraging development compatible with the environment of the City, encouraging development to provide open space, encouraging development to preserve and incorporate existing "unusual, unique and interesting natural features", reducing development intensity as natural environmental constraints increase, and avoiding intensive development of sites with severe environmental constraints;

7. implementing the policies of the Growth Management Act; the State Environmental Policy Act, Chapter 43.21C RCW; the Puget Sound Water Quality Management Plan; Washington State Executive Order 90-04; Port Angeles Environmental Policy Ordinance, Chapter 15.04 of the Port Angeles Municipal Code; Port Angeles Shoreline Management Ordinance, Chapter 15.08 of the Port Angeles Municipal Code; Port Angeles Flood Damage Prevention Ordinance, Chapter 15.12 of the Port Angeles Municipal Code; the Port Angeles Zoning Code; the Port Angeles Stormwater Management Plan; and all other present and future City of Port Angeles functional, environmental, and community plans, programs and ordinances. (Ord. 3179 §3 (part), 12/17/2004; Ord. 2655 §1 (part), 11/29/91.)

15.24.020 - Definitions. In addition to definitions contained in Chapter 15.02, the following definitions shall apply. Where definitions exist in both 15.02 and 15.24.020, the definitions in 15.24.020 shall apply

A. "Applicant" means a person who files an application for permit under this Chapter and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

B. "Buffer" means an undisturbed area adjacent to a wetland area that is required to permanently remain in an undisturbed and untouched condition to protect or enhance the functions of the wetland area and is considered part of the wetland area. A buffer is different than a setback.

C. "Clearing" means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth's surface on the site or results in the loss of forested areas.

D. "Compensation project" means actions necessary to replace project-induced wetland and wetland buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

E. "Compensation" or "Compensatory mitigation" means a form of mitigation that replaces project-induced wetland losses or impacts, and includes, but is not limited to, restoration, enhancement, substitute resources, creation, and preservation which are defined as follows:

1. "Restoration" means actions performed to reestablish wetlands or their buffer area's functional and value characteristics and processes which have been lost by alterations, activities, or catastrophic events within an area;

a. Active steps taken to restore damaged wetlands, or their buffers to the functioning condition that existed prior to an alteration; and

b. Actions performed to reestablish structural and functional characteristics of wetlands that have been lost by alteration, past management activities, or catastrophic events.

2. "Enhancement" means actions performed to improve the condition of an existing environmentally sensitive area so that the functions and values provided are of a higher quality;

3. "Substitute Resources" means actions performed to provide for an alternative environmentally sensitive area; or

4. "Creation" means actions performed to intentionally establish or expand an environmentally sensitive area where it did not formerly exist.

5. "Preservation" means actions taken to ensure the permanent protection of existing, high-quality environmentally sensitive areas.

F. "Developable Area" means an area of land outside of wetlands and wetland buffers.

G. "Director" means the Director of Community Development or an authorized agent of the Director.



H. "Existing and ongoing agriculture" includes those activities conducted on lands defined in RCW 84.34.030(2), and those activities involved in the production of crops or livestock. For example, the operation and maintenance of farm and stock ponds or drainage ditches; operation and maintenance of ditches; irrigation systems including irrigation laterals, canals, or irrigation drainage ditches; changes between agricultural activities; and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity. Forest practices are not included in this definition.

I. "Extraordinary hardship" means strict application of this Title and/or programs adopted to implement this Title by the City of Port Angeles would prevent all reasonable economic use of the parcel.

J. "Functions", "beneficial functions", or "functions and values" means the beneficial roles served by wetlands, including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation; groundwater recharge and discharge; erosion control; wave attenuation; historical and archaeological and aesthetic value protection; protection from hazards, and recreation. These beneficial roles are not listed in order or priority.

K. "High intensity land use" includes land uses which are associated with high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, residential development greater than seven dwelling units per acre, active recreation, and commercial and industrial land uses.

L. "High quality wetlands" are those regulated wetlands which meet the following criteria:

1. No, or isolated, human alteration of the wetland topography;
2. No human-caused alteration of the hydrology or else the wetland appears to have recovered from the alteration;
3. Low cover and frequency of exotic plant species;
4. Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;
5. If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and
6. No known major water quality problems

M. "Hydric Soil" means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the *Washington State Department of Ecology Wetland Identification and Delineation Manual*. For the purposes of identifying wetland environmentally sensitive areas, hydric soils that qualify as "prime agricultural soils" only through artificial means that will impair the existence of natural wetlands (specifically soils that are prime agricultural land only when drained), are considered potential wetlands indicators for the purposes of this Chapter, and are not to be considered agricultural resource lands.

N. "Hydrophytic vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the *Washington State Department of Ecology Wetland Identification and Delineation Manual*.

O. "In-kind compensation" means to replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category".

P. "Isolated wetlands" means those regulated wetlands which:

1. are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream; and

2. have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

Q. "Low-intensity land use" includes land uses which are associated with low levels of human disturbance or low wetland habitat impacts, including, but not limited to, residential density of seven or fewer dwelling units per acre, passive recreation, open space, or agricultural or forest management land uses.

R. "Mitigation" means taking measures including avoiding, minimizing, or compensating for adverse wetland impacts. Mitigation, in the following order of preference, is:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;

6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures.

S. Non-Compensatory Enhancement: Non-compensatory enhancements are those wetland enhancement projects which are conducted solely to increase the functions and values of an existing wetland and which are not required to be conducted pursuant to the requirements of Section 15.24.070(H)(6).

T. "Off-site compensation" means to replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

U. "On-site compensation" means to replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.

V. "Out-of-kind compensation" means to replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement "out-of-category".

W. "Practicable alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to regulated wetlands. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purposes of the proposed activity.

X. "Regulated activities" means any of the following activities which are directly undertaken or originate in a regulated wetland or its buffer:

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

2. The dumping, discharging, or filling with any material;

3. The draining, flooding, or disturbing of the water level or water table;

4. The driving of pilings;

5. The placing of obstructions;

6. The construction, reconstruction, demolition, or expansion of any structure;

7. The destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland; provided that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or

8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of a wetland's water sources, including quantity, or the introduction of pollutants.

Y. "Regulated wetlands" means ponds twenty acres or less, including their submerged aquatic beds, and those lands defined as wetlands under the Federal Clean Water Act, 33 USC Sec. 1251 *et seq.*, and rules promulgated pursuant thereto and shall be those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands. Category I, II, III and IV wetlands are defined in Section 15.24.040D, Wetlands Rating System. All Category I wetlands shall be considered regulated wetlands. Regulated wetlands do not include Category II and III wetlands less than 2,500 square feet and Category IV wetlands less than 10,000 square feet. Regulated wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. The applicant shall bear the burden of proving that the site was not previously a wetland. For identifying and delineating a regulated wetland, local government shall consider the latest version of the *Washington State Department of Ecology Wetland Identification and Delineation Manual*.

Z. "Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

AA. "Serviceable" means presently usable.

BB. "Unavoidable and necessary impacts" are impacts to regulated wetlands that remain after an applicant proposing to alter regulated wetlands has demonstrated that no additional mitigation measures are practicable.

CC. "Wetlands", for the purposes of inventory, incentives, and nonregulatory programs, means those lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have one or more of the following attributes:

1. At least periodically, the land supports predominantly hydrophytes;
2. The substrate is predominantly undrained hydric soil; and
3. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

DD. "Wetland buffers" or "wetland buffer zones" is an area that surrounds and protects a wetland from adverse impacts to the functions and values of a regulated wetland.

EE. "Wetland classes", "classes of wetlands", or "wetland types" means descriptive classes of the wetlands taxonomic classification system of the *Washington State Department of Ecology Wetland Identification and Delineation Manual*. Wetlands include the following classes or types:

1. "Emergent wetland" means a regulated wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.
2. "Forested wetland" means a regulated wetland with at least 20 percent of the surface area covered by woody vegetation greater than 20 feet in height.
3. "Scrub-shrub wetland" means a regulated wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost stratum.
4. "Estuarine wetland" means a regulated wetland that consists of or is adjacent to tidal habitats and is usually semi-enclosed by land but often have open, partly obstructed, or sporadic access to saltwater, and in which saltwater is at least occasionally diluted by freshwater runoff from the land. Estuarine systems include both estuaries and lagoons.

FF. "Wetlands permit" means any permit issued, conditioned, or denied specifically to implement this Chapter.

GG. "Wetland edge" means the boundary of a wetland as delineated based on the definitions contained in this Chapter. (Ord. 3179 §4 (part), 12/17/2004; Ord. 2655 §1 (part), 11/29/91.)

15.24.030 - General Provisions.

A. Abrogation and Greater Restrictions. It is not intended that this Chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

B. Interpretation. The provisions of this Chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this Chapter. (Ord. 2655 §1 (part), 11/29/91.)

15.24.040 - Lands to Which this Chapter Applies.

A. Applicability.

1. When any provision of any other Chapter of the Port Angeles Municipal Code conflicts with this Chapter, that which provides more protection to wetlands and wetland buffers shall apply unless specifically provided otherwise in this Chapter.

2. The Director of Community Development is authorized to adopt written procedures for the purpose of carrying out the provisions of this Chapter. Prior to fulfilling the requirements of this Chapter, the City of Port Angeles shall not grant any approval or permission to conduct a regulated activity in a wetland or wetland buffer, including but not limited to the following: building permit, commercial or residential; binding site plan; conditional use permit; franchise right-of-way construction permit; clearing and grading permit; master plan development; planned residential development; right-of-way permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; shoreline environmental redesignation; unclassified use permit; variance; zone reclassification; subdivision; short subdivision; special use permit; utility and other use permit; or any subsequently adopted permit or required approval not expressly exempted by this Chapter.

B. Maps and Inventory. This Chapter shall apply to all lots or parcels on which wetlands and/or wetland buffers are located within the jurisdiction of the City of Port Angeles. The approximate location and extent of wetlands in the City of Port Angeles is displayed on the following maps:

1. Wetlands identified on U. S. Fish and Wildlife Service National Wetlands Inventory Angeles Point, Ediz Hook, Elwha, Morse Creek, and Port Angeles maps.

2. Hydric soils and "wet spots" identified by the USDA Soils Conservation Service Soil Survey of Clallam County Area maps numbers 22, 31, 32, 33.

3. City of Port Angeles Composite Wetland Inventory and Hydric Soils map, as may be modified from time to time.

These map resources are to be used as a guide to the general location and extent of wetlands. Wetlands not shown on these maps but meeting the criteria set forth in this Chapter are presumed to exist in the City of Port Angeles and are protected under all the provisions of this Chapter. In the event that any of the wetland designations shown on the maps conflict with the criteria set forth in this Chapter, the criteria shall control.

C. Determination of Regulatory Wetland Boundary. The exact location of the wetland boundary shall be determined through the performance of a field investigation applying the wetland definition provided in Section 15.24.020 of this Chapter. Qualified professional and technical scientists shall perform wetland delineations using the latest version of the "*Washington State Wetlands Identification and Delineation Manual*". Publication #96-94 Washington Department of Ecology 1997. An applicant for a wetland permit is required under Subsection 15.24.060C3 to show the location of the wetland boundary on a scaled drawing as a part of the permit application.

The Director of Community Development shall decide whether the qualified professionals who perform the delineation of boundary requirement are retained by the applicant or by the City with the applicant paying the City for the costs in accordance with the provisions of Section 15.24.060C4 of this Chapter.

Where the delineation is performed under the Director of Community Development's direction, such delineation shall be considered a final determination.

Where the applicant has provided a delineation of the wetland boundary, the Director of Community Development shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Director of Community Development shall, at the applicant's expense, obtain expert services to render a final delineation.

D. Wetlands Rating System. The following Washington State rating system is hereby adopted as the rating system for the City of Port Angeles. Wetlands buffer widths, replacement ratios, and avoidance criteria shall be based on these rating systems.

1. Washington State Four-Tier Wetlands Rating System.
  - a. Category I Criteria
    - i. Documented habitat for endangered or threatened fish or animal species or for potentially extirpated plant species recognized by State or Federal agencies; or
    - ii. High quality native wetland communities, including documented Category I or II quality Natural Heritage wetland sites and sites which qualify as a Category I or II quality National Heritage wetland; or
    - iii. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps; or
    - iv. Wetlands of exceptional local significance. The criteria for such a designation shall be developed and adopted by the local jurisdiction under appropriate public review and administrative appeal procedures. The criteria may include, but not be limited to, rarity, groundwater recharge areas, significant habitats, unique educational sites, or other specific functional values within a watershed or other regional boundary.
  - b. Category II Criteria
    - i. Regulated wetlands that do not contain features outlined in Category I; and
    - ii. Documented habitats for sensitive plant, fish, or animal species recognized by Federal or State agencies; or
    - iii. Rare wetland communities listed in Subsection 15.24.040D1aiii which are not high quality; or
    - iv. Wetland types with significant functions which may not be adequately replicated through creation or restoration.
    - v. Regulated wetlands with significant habitat value based on diversity and size.
    - vi. Regulated wetlands contiguous with salmonid fish-bearing waters, including streams where flow is intermittent; or
    - vii. Regulated wetlands with significant use by fish and wildlife.
    - viii. Wetlands that contain plant, fish or animal species listed as priority species by the Department of Fish and Wildlife.
  - c. Category III Criteria
    - i. Regulated wetlands that do not contain features outlined in Category I, II, or IV.
  - d. Category IV Criteria
    - i. Regulated wetlands which do not meet the criteria of a Category I or II wetland; and
    - ii. Isolated wetlands which are less than or equal to one (1) acre in size; and have only one wetland class; and have only one dominant plant species (monotypic vegetation); or
    - iii. Isolated wetlands which are less than or equal to two (2) acres in size, and have only one wetland class and a predominance of exotic species.

15.24.040  
15.24.045

2. Wetland rating categories shall be applied as the regulated wetland exists on the date of adoption of the rating system by the local government; as the regulated wetland may naturally change thereafter; or as the regulated wetland may change in accordance with permitted activities. Wetland rating categories shall not be altered to recognize illegal modifications.

3. The City of Port Angeles shall apply the latest version of the Washington State Department of Ecology "*Washington State Wetlands Rating System for Rating the Resource Value of Regulated Wetlands*" and "*Field Methodology*" as its procedures for the wetland rating system.

4. The City of Port Angeles will initially rate wetlands based on information derived from available maps, reports, and similar materials. Wetlands may be reclassified into another category at a subsequent date should field surveys or other new materials warrant such action. (Ord. 2655 §1 (part), 11/29/91.)

15.24.045 Wetland Functional Assessment. Wetlands functional assessment section is intended to assist in establishing a values based system for reviewing and approving wetland permit requests and mitigation plans. The wording will bring the Port Angeles method of wetland protection into closer consistency with the Clallam County method of evaluations.

Wetlands provide valuable functions in providing and/or facilitating high quality habitat for plant and animal species. Some of these plants and animals have been classified as endangered, threatened, or monitored species, either by the federal government or by the State of Washington. Most of the wetlands in Port Angeles do not provide primary habitat for these plants or animals; however, all wetland functions facilitate a quality environment in areas that do provide primary habitat. Water that enters streams, lakes, marine environments or groundwater eventually impacts habitat. Wetlands function to cleanse and cool those waters, as well as moderate the rate of flow into larger bodies of water. The functions of wetlands are discussed in more detail in the following section.

Wetlands shall be classified based on hydrology types specified in Table 1 and assessed on hydrologic functions as specified in Table 2. Wetland functions are also assessed through the Class I - Class IV as characterized in Section 15.24.040.

**Table 1**  
**Classification of Wetland Hydrology Types**

<b>Hydrology Type</b>	<b>Landscape Position</b>	<b>Water Source**</b>	<b>Water Output*</b>
Type 1	Shallow soils formed on glacial till on hillsides	Perched	Discharges to stream
Type 2	Moderately deep soils found in basins and drainage ways formed in depressions in glacial drift on hills	Perched	Initiates streams
Type 3	Very deep soils occurring on basins on low terraces formed in alluvium (i.e., stream deposited materials)	Perched	Enclosed basin
Type 4	Wetlands found in depressions associated with coarse material over glacial till	Unconfined aquifer	Unconfined aquifer
Type 5	Very deep soils on level terraces and in valleys, formed in organic material	Unconfined aquifer	Initiates or supplements streamflow

Hydrology Type	Landscape Position	Water Source**	Water Output*
Type 6	Very deep soils on low level terraces and floodplains formed in alluvium near marine shorelines	Unconfined aquifer, tidally influenced	Lower reaches of streams and marine waters
Type 7	wetlands formed along the margin of surficial geological units that have a restrictive layer (i.e., glacial till), where they come into contact with unrestricted coarse units	Perched or unconfined aquifer	Unconfined aquifer
Type 8	Wetlands formed within the floodplain of streams	Stream discharges to wetland	Wetland discharges to stream
Type 9	Wetlands (e.g., bogs) located in depressions where water tables are at or near the surface normally year-round	Precipitation	Evapotranspiration
Type 10	Floodplains underlain by glacial till	Perched	Discharges to stream
Type 11	Wetlands associated with lakes	Lake	Lake
Type 12	Wetlands located along marine shorelines behind coastal dunes, other land forms or structures	Marine, tidally influenced	Marine and evapotranspiration
*Refers to the factors that control the sources(s) of water to a wetland and where the water goes after leaving the wetland. **Refers to natural wetland hydrology (i.e., does not include hydrologic modifications.)			

A. Wetland Hydrologic Functions shall be classified by the effect that classified wetland hydrology types have on the overall flow and quality of water in the watershed in comparison to nonwetland areas. For the purposes of this chapter, wetland hydrologic functions are defined as follows.

1. Floodflow desynchronization. Ability of a wetland to retain/detain floodwaters in the upper watershed, reducing the severity of flooding and increasing the time of concentration above that which occurs in adjacent upslope areas.

2. Surface water treatment. This wetland function is significant but not in the context that wetlands act as the major source of surface water flow. Although some wetlands do provide a significant amount of surface water to streams and rivers, the impacts are significant due to the fact that wetlands in contact with surface water flows are capable of treating water quality prior to its entry into the surface water body.

a. Nutrient removal/transformation opportunity. Ability of a wetland to retain or transform inorganic phosphorus and/or nitrogen into their organic forms, or transform nitrogen into its gaseous form on either a net annual basis, or during the growing season.

b. Sediment/toxicant/bacterial retention. Ability of a wetland to retain suspended solids and chemical contaminants such as pesticides, pathogens, and heavy metals absorbed by them, on a net annual basis.

c. Seawater Intrusion Prevention. Those wetlands which are the boundary between the unconfined aquifer and the marine environment. Loss of water supply or drainage of wetlands will likely increase seawater intrusion into estuarine wetlands.

d. Streamflow/channel maintenance. Wetlands that due to detention or groundwater discharge supply a significant proportion of streamflow during summer and fall. These areas regulate the amount and timing of stream energy and therefore are crucial to defining the shape of stream channels since they largely determine the shape of the hydrograph.

e. Temperature maintenance. Those wetlands that provide thermal refuges during winter and summer months, due to influence from springs or contact with the unconfined aquifer. During summer months wetlands with this function are important as fish habitat for salmonids; during winter months, these wetlands provide waterfowl habitat by maintaining ice-free conditions.

f. Water availability. The ability of a wetland through hydrologic continuity to provide surface water for migratory and resident species based on the timing, duration, and depth of surface water availability.

3. Groundwater recharge. This wetland function is significant but not in the context that wetlands act as the major locations of ground water recharge to aquifers. Although some wetlands do provide a significant amount of ground water recharge, ground water recharge is significant due to the fact that wetlands in contact with the aquifer are most susceptible to carrying pollutants to the aquifer. Conversely, if managed properly, such wetlands could assist in the treatment of pollutants already carried in the aquifer.

a. Nutrient removal/transformation opportunity. Ability of a wetland to retain or transform inorganic phosphorus and/or nitrogen into their organic forms, or transform nitrogen into its gaseous form on either a net annual basis, or during the growing season.

b. Sediment/toxicant/bacterial retention. Ability of a wetland to retain suspended solids and chemical contaminants such as pesticides, pathogens, and heavy metals absorbed to them, on a net annual basis.

c. Seawater Intrusion Prevention. Those wetlands which are the boundary between the unconfined aquifer and the marine environment. Loss of water supply or drainage of wetlands will likely increase seawater intrusion to unconfined aquifers supplying drinking water to coastal inhabitants. The City of Port Angeles has no unconfined aquifers that supply drinking water to coastal inhabitants.

d. Streamflow/channel maintenance. Wetlands that due to detention or groundwater discharge supply a significant proportion of streamflow during summer and fall. These areas regulate the amount and timing of stream energy and therefore are crucial to defining the shape of stream channels since they largely determine the shape of the hydrograph.

e. Temperature maintenance. Those wetlands that provide thermal refuges during winter and summer months, due to influence from springs or contact with the unconfined aquifer. During summer months wetlands with this function are important as fish habitat for salmonids; during winter months, these wetlands provide waterfowl habitat by maintaining ice-free conditions.

f. Water availability. The ability of a wetland through hydrologic continuity to provide surface water for migratory and resident species based on the timing, duration, and depth of surface water availability.

B. Drinking water. Ability of a wetland to recharge, maintain, and/or enhance surface or ground water resources that yield potable water in sufficient quantities to be economically useful. Provision of potable water in sufficient quantities to be economically useful is a low priority within the existing City limits.



**Table 2**  
**Assessment of Wetland Hydrologic Functions**

Hydrologic Function	Wetland Hydrology Types											
	1	2	3	4	5	6	7	8	9	10	11	12
Flood storage	L	L	L	L	L	L	L	H	L	L	H	-
Floodflow desynchronization	L	H	L	L	H	L	L	H	-	H	H	-
Streamflow and channel maintenance	L	H	N	L*	H	H	N	H	N	L	H	N
Ground water recharge	N	N	L	H	N	L	H	H	H	H	H	-
Temperature maintenance	L	H	L	H	H	H	N	L	H	L	L	-
Sediment/bacterial removal	L	H	H	L	H	L	L	H	H	H	H	N
Nutrient removal	L	H	L	H	H	H	H	H	H	H	H	H
Toxicant removal opportunity	L	H	L	H	H	H	H	H	H	H	H	H
Seawater intrusion prevention	N	N	N	N	N*	H	N	N	L	N	N	N
Drinking water	L	H	L	H	H	H	H	H	H	L	H	N
Water availability for fish	H	H	L	L	H	H		H	L	H	H	H
Water availability for amphibians	H	H	H	H	H	H	H	H	H	H	H	H
Water availability for migratory waterfowl	L	H	H	H	H	H	L	H	H	H	H	H
Water availability for other wildlife	L	H	H	H	H	H	L	H	H	H	H	L
h = High functional value L = performs this function to a limited degree N = Does not perform function * = High value if associated with wetland hydrology												

C. Wetland Habitat Functions. Wetland landscape functions shall be characterized and assessed based on existing wetland and adjacent upland conditions, landscape position, documented species use, and existing management /modifications pursuant to the criteria in subsections 2a through 2i of this section as they relate to the subject property or within the jurisdiction of this chapter as it applies to regulated wetlands. Based on these criteria, habitat functions shall be further classified into one of four wetland classes, as specified in Section 15.24.040D with Class I being the most functional and Class IV being the least functional.

1. Habitat type. Classify and delineate wetland habitat types based on the U. S. Fish and Wildlife Service Classification of Wetlands and Deepwater Habitats, Dated 1979, as now or hereafter amended. Identify the dominant vegetation communities associated with each classified wetland habitat type.
2. Habitat diversity. Calculate both the total number of wetland habitat types and the different wetland habitat types identified in subsection 2a of this section for each wetland.
3. Habitat size. Calculate the total wetland acreage and acreage of each individual habitat type identified in subsection 2a of this section for each wetland.
4. Upland habitat type. Classify and delineate all lands into one or more of the following land cover categories: developed lands; agriculture; non-native plant species; water; native upland grasses; native forests less than twenty feet in height; native forest greater than twenty feet in height; and mature conifers.
5. Significant habitat features. Identify and delineate the presence of significant habitat features including, but not limited to: estuaries, snags, islands, rare or unique plant communities, mature conifers, Class I wildlife habitat conservation areas, and/or wetlands classified as exhibiting a high functional value of water availability for migratory waterfowl or other wildlife species.
6. Species use. Identify and delineate all known priority habitats for species listed as species of concern or priority species.
7. Anadromous fish use. Identify wetlands contiguous to Type 1 - 23 aquatic habitat conservation areas, or other waters containing anadromous fisheries recognized by local or state public agencies.
8. Significant wildlife movement corridor. Identify whether one or more of the following areas is located within:
  - a. Land and water areas designated as shorelines in the Shoreline Management Act of 1971 and the City of Port Angeles Shoreline master Program;
  - b. Lands designated as significant wildlife movement corridors, open space and greenbelt corridors;
  - c. Federal, state, and local parks, wildlife refuges, and other protected natural areas;
  - d. Easements or other dedicated lands granted to the City of Port Angeles or other organizations devoted to protection and management of critical areas, open spaces, or wildlife habitat.
9. Management and modification. Identify existing management and alteration s of wetlands, and the impact of such actions on the above classification. Wetlands management activities include, but are not limited to: forestry, livestock grazing, agriculture, commercial recreation (e.g., golf courses), residential (e.g., lawns), public lands (e.g., parks, natural areas), and/or land not managed for any other use. Wetland alterations include, but are not limited to: flooding, impounding of water, excavation, filling, grading, draining, or discharge from irrigation or drainage facilities. (Ord. 3179 §4, (part), 12/17/2004)

15.24.050 - Regulated Activities and Allowed Activities.

- A. Regulated Activities. A permit shall be obtained from local government prior to undertaking the following activities in a regulated wetland or its buffer, unless authorized by Subsection B below:
1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
  2. The dumping, discharging, or filling with any material;
  3. The draining, flooding, or disturbing of the water level or water table.
  4. The driving of pilings;
  5. The placing of obstructions;
  6. The construction, reconstruction, demolition, or expansion of any structure;

7. The destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland, provided that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or

8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants. Stormwater discharges from stormwater facilities or structures may be allowed when they are in accordance with City of Port Angeles' stormwater plan. The discharge shall not significantly increase or decrease the rate of flow and/or hydroperiod, nor decrease the water quality of the wetland. Pre-treatment of surface water discharge through biofiltration or other best management practices (BMPs) shall be required.

9. Road/street repair and construction. Any private or public road or street repair, maintenance, expansion or construction may be permitted, subject to the following standards:

a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;

b. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc; and

c. The road or street repair and construction are the minimum necessary to provide safe roads and streets.

d. Mitigation shall be performed in accordance with specific project mitigation plan requirements.

10. Land Divisions and Land Use Permits. All proposed divisions of land and land uses (including but not limited to the following: short plats, subdivisions, planned residential developments, binding site plans, conditional use permits) which include regulated wetlands, shall comply with the following procedures and development standards:

a. Regulated wetlands, except the area with permanent open water, and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards, including subdivision (c) below, are met.

b. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be dedicated as open space tracts, or as an easement or covenant encumbering the wetland and wetland buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan, and title.

c. In order to implement the goals and policies of this title, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.

d. After preliminary approval and prior to final land division approval, the department may require that the common boundary between a regulated wetland or associated buffer and the adjacent land be identified using permanent signs and/or fencing. In lieu of signs and/or fencing, alternative methods of wetland and buffer identification may be approved when such methods are determined by the department to provide adequate protection to the wetland and buffer.

11. Trails and trail-related facilities. Construction of public and private trails and trail-related facilities, such as benches and viewing platforms may be allowed in wetlands or wetland buffers pursuant to the following guidelines:

a. trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.

b. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.

c. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.

d. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of thirty feet from the wetland edge, except where wetland crossings or viewing areas have been approved.

e. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as dike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the department. Trails shall be constructed with pervious materials unless otherwise approved by the department.

12. Parks. Development of public park and recreation facilities may be permitted provided that the following standards are followed:

No alteration of wetlands or wetland buffers is allowed except for such uses which are allowed below. For example enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a wetland mitigation plan.

B. Allowed Activities. The following uses shall be allowed within a wetland or wetland buffer to the extent that they are not prohibited by any other ordinance or law and provided they are conducted using best management practices, except where such activities result in the conversion of a regulated wetland or wetland buffer to a use to which it was not previously subjected, and provided further that forest practices and conversions shall be governed by Chapter 76.09 RCW and its rules:

1. Conservation or preservation of soil, water vegetation, fish, shellfish, and other wildlife that does not include changing the structure or functions of the existing wetland;

2. Outdoor recreational activities, including but not limited to fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;

3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions, or water sources;

4. Existing and ongoing agricultural activities, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals. Activities on areas lying fallow as part of a conventional rotational cycle are part of an ongoing operation. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it was conducted has been converted to another use or has laid idle so long that modifications to the hydrological regime are necessary to resume operations;

5. The maintenance (but not construction) of drainage ditches;

6. Education, scientific research, and use of nature trails;

7. Navigation aids and boundary markers;

8. Boat mooring buoys;

9. Site investigative work necessary for land use application submittals, such as surveys, soil logs, percolation tests, and other related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored; and

10. The following uses are allowed within wetlands and/or wetland buffers provided that written notice at least ten days prior to the commencement of such work has been given to the Director of Community Development, and provided that wetland impacts are minimized and that disturbed areas are immediately restored:

a. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area and does not include the construction of a maintenance road; and

b. Minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions.

C. Special Permit Uses. Any activity other than those specified in Subsection B may not be conducted in wetlands or wetland buffers except upon issuance of a Wetland Permit by the Director of Community Development. (Ord. 3179 §4 (part), 12/17/2004; Ord. 2655 §1 (part), 11/29/91.)

### 15.24.060 - Procedures for Wetland Permits.

A. Permit Requirements, Compliance. Except as specifically provided in Section 15.24.050B, no regulated activity shall occur or be permitted to occur within a regulated wetland or wetland buffer without a written permit from the Director of Community Development. Any alteration approved by such written permit shall comply fully with the requirements and purposes of this Chapter, other applicable regulations, and any terms or conditions of said permit. All activities which are not allowed or permitted shall be prohibited.

B. Wetland Permits, Extensions. Application for a Wetland Permit to conduct any regulated activity not specifically authorized by Section 15.24.050B within a wetland or wetland buffer shall be made to the Director of Community Development on forms furnished by his/her office. Permits shall normally be valid for a period of three years from the date of issue and shall expire at the end of that time, unless a longer or shorter period is specified by the Director of Community Development upon issuance of the permit.

An extension of an original permit may be granted upon written request to the Director of Community Development by the original permit holder or the successor in title. Prior to the granting of an extension, the Director of Community Development shall require updated studies and/or additional hearings if, in his/her judgment, the original intent of the permit is altered or enlarged by the renewal; if the circumstances relevant to the review and issuance of the original permit have changed substantially; or if the applicant failed to abide by the terms of the original permit.

### C. Permit Applications.

1. Request for determination of applicability: Any person seeking to determine whether a proposed activity or an area is subject to this Chapter may request in writing a determination from the Director of Community Development. Such a request for determination shall contain plans, data, and other information as may be specified by the Director of Community Development.

2. Pre-Permit Consultations: Any person intending to apply for a Wetland Permit is strongly encouraged, but not required, to meet with the Director of Community Development during the earliest possible stages of project planning in order to discuss wetland impact avoidance and minimization and to discuss compensation, before large commitments have been made to a particular project design. Effort put into pre-application consultations and planning will help applicants create projects which will be more quickly and easily processed.

3. Information Requirements - Wetlands: Unless the Director of Community Development waives one or more of the following information requirements, applications for a Wetland Permit under this Chapter shall include a Wetland Report containing the following information:

a. Prepared by a qualified professional. A wetland report shall be prepared by a qualified professional who is a wetland biologist, with experience preparing wetland reports.

b. Area addressed in wetland report. The following areas shall be addressed in a wetland report.

i. The project area of the proposed activity;

ii. All wetlands and recommended buffers within three hundred (300) feet of the project area.

iii. All shoreline areas, water features, flood plains, and other environmentally sensitive areas, and related buffers within three hundred (300) feet.

c. Wetland analysis. In addition to the minimum required contents of environmentally sensitive area reports, a wetland report shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum.

i. A written assessment and accompanying maps of the wetlands and buffers within three hundred (300) feet of the project area, including the following information at a minimum:

a). Wetland delineation and required buffers;

b). Existing wetland acreage;

c). Wetland category; vegetative, faunal, and hydrologic characteristics;

d). Soil and substrate conditions; and

e). Topographic elevations, at two-foot contours.

ii. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

iii. Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

- a). Existing and proposed wetland acreage;
- b). Vegetative, faunal, and hydrologic conditions;
- c). Relationship within watershed and to existing water bodies;
- d). Soil and substrate conditions, topographic elevations;
- e). Existing and proposed adjacent site conditions;
- f). Required wetland buffers; and
- g). Property ownership

iv. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs.

The Director of Community Development may require additional information, including but not limited to, an assessment of wetland functional characteristics, including a discussion of the methodology used; documentation of the ecological, aesthetic, economic, or other values of the wetland; a study of flood, erosion, or other hazards at the site and the effect of any protective measures that might be taken to reduce such hazards; and any other information deemed necessary to verify compliance with the provisions of this Chapter or to evaluate the proposed use in terms of the purposes of this Chapter. The Director of Community Development shall maintain and make available to the public, all information applicable to any wetland and its buffer.

4. Filing Fees: At the time of an application or request for delineation, the applicant shall pay a filing fee as determined by the Director of Community Development. Sufficient fees shall be charged to the applicant to cover the costs of evaluation of the application or request for delineation. These fees may be used by the Director of Community Development to retain expert consultants to provide services pertaining to wetland boundary determinations, functional assessments, and evaluation of mitigation measures. As deemed necessary by the Director of Community Development, the Director of Community Development may assess additional reasonable fees as needed to monitor and evaluate permit compliance and mitigation measures.

5. Notification: Upon receipt of the completed permit application, the Planning Director shall notify the individuals and agencies, including Federal and State agencies, having jurisdiction over or an interest in the matter, to provide such individuals and agencies an opportunity to comment.

The Director of Community Development shall establish a mailing list of all interested persons and agencies who wish to be notified of such application.

6. Notice on Title:

a. The owner of any property with field verified presence of wetland or wetland buffer pursuant to Subsection 15.24.040C, on which a development proposal is submitted shall file for record with the Clallam County Auditor a notice approved by the Director of Community Development in a form substantially as set forth in Subsection b. below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of this Chapter to the property, and that limitations on actions in or affecting such wetlands and their buffers may exist.

The applicant shall submit proof that the notice has been filed for record before the City of Port Angeles shall approve any development proposal for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be in violation of this Chapter.

## b. Form of Notice:

## WETLAND AND/OR WETLAND BUFFER NOTICE

Legal Description: \_\_\_\_\_

Present Owner: \_\_\_\_\_

NOTICE: This property contains wetlands or their buffers as defined by City of Port Angeles Ordinance. The property was the subject of a development proposal for (type of permit) application # \_\_\_\_\_ filed on (date). Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of wetlands or wetland buffers and restrictions on their use through setback areas. A copy of the plan showing such setback areas is attached hereto.

\_\_\_\_\_  
(Signature of owner)

STATE OF WASHINGTON )

COUNTY OF CLALLAM ) SS:

On this day personally appeared before me to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein stated.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at  
\_\_\_\_\_

D. Permit Processing.

1. Consolidation: The Director of Community Development shall, to the extent practicable and feasible, consolidate the processing of wetlands-related aspects of other City of Port Angeles regulatory programs which affect activities in wetlands, such as subdivision, clearing and grading, floodplain, and environmentally sensitive areas, with the Wetland Permit process established herein so as to provide a timely and coordinated permit process.

2. **Completeness of Application:** No later than 28 working days after receipt of the permit application, the Director of Community Development shall notify the applicant as to the completeness of the application. An application shall not be deemed complete until and unless all information necessary to evaluate the proposed activity, its impacts, and its compliance with the provisions of this Chapter have been provided to the satisfaction of the Director of Community Development. Such determination of completeness shall not be construed as an approval or denial of the permit application.

3. **Permit Action:**

a. Upon receipt of a complete application for a permit authorizing activities on a Category I wetland or its buffer, the City of Port Angeles shall submit the application to the Washington State Department of Ecology for its review and comment. When such permit applications are submitted, the Washington State Department of Ecology should submit its comments or should request an extension of the review period within 30 days. Extensions may be up to 30 days in length. When submitted, no permit shall be issued under this Subsection prior to receipt of such comments or the expiration of the time period or any extension.

b. The Director of Community Development shall approve, approve with conditions, or deny a permit application based on compliance with the standards and requirements of this Chapter. The Director of Community Development's decision shall include written findings. (Ord. 3179 §4 (part), 12/17/2004; Ord. 2928 (part), 9/13/96; Ord. 2655 §1 (part), 11/29/91.)

15.24.070 - Standards for Permit Decisions.

A. A permit shall only be granted if the permit, as conditioned, is consistent with the provisions of this Chapter. Additionally, permits shall only be granted if:

1. A proposed action avoids adverse impacts to regulated wetlands, its functions, or their buffers or takes affirmative and appropriate measures to minimize and compensate for unavoidable impacts;

2. The proposed activity results in no net loss of wetland area and function; or

3. Denial of a permit would cause an extraordinary hardship on the applicant.

B. Wetlands permits shall not be effective and no activity thereunder shall be allowed during the time provided to file a permit appeal.

C. Wetland Buffers:

1. **Standard Buffer Zone Widths:** Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field, pursuant to the applicable definitions in 15.24.020. The width of the wetland buffer zone shall be determined according to wetland category and the intensity of the proposed land use, as follows:

a.	Category I	
	High intensity	300 feet
	Low intensity	200 feet
b.	Category II	
	High intensity	200 feet
	Low intensity	100 feet
c.	Category III	
	High intensity	100 feet
	Low intensity	50 feet
d.	Category IV	
	High intensity	50 feet
	Low intensity	25 feet



2. Increased Wetland Buffers Zone Width: The Director of Community Development shall require increased standard buffer zone widths on a case-by-case basis when a larger buffer is necessary to protect wetlands functions and values, based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit condition and shall demonstrate that:

- a. a larger buffer is necessary to maintain viable populations of existing species; or
- b. the wetland is used by species proposed or listed by the Federal Government or the State as endangered, threatened, rare, monitor, or sensitive, critical or outstanding potential habitat for those species, or has unusual nesting or resting sites, such as heron rookeries or raptor nesting trees; or
- c. the adjacent land is susceptible to severe erosion, and erosion control measures will not effectively prevent adverse wetland impacts; or
- d. the adjacent land has minimal vegetative cover or slopes greater than 15 percent.

3. Reduction of Standard Wetland Buffer Zone Width: The Director of Community Development may reduce the standard wetland buffer zone widths on a case-by-case basis where it can be demonstrated that:

- a. the adjacent land is extensively vegetated and has less than 15 percent slopes and that no direct or indirect, short-term or long-term, adverse impacts to regulated wetlands, as determined by the Director of Community Development, will result from a regulated activity. The Director of Community Development may require long-term monitoring of the project and subsequent corrective actions if adverse impacts to regulated wetlands are discovered; or
- b. the project includes a buffer enhancement plan using native vegetation which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetlands functions and values. An enhanced buffer shall not result in greater than a 25 percent reduction in the buffer width, and the reduced buffer shall not be less than 25 feet.

4. Standard Wetland Buffer Width Averaging: Standard wetland buffer zones may be modified by averaging buffer widths. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

- a. that averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
- b. that the wetland contains variations in sensitivity due to existing physical characteristics;
- c. that low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;
- d. that width averaging will not adversely impact the wetland functional values; and
- e. that the total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging. In no instance shall the buffer width be reduced by more than 50 percent of the standard buffer or be less than 25 feet.

5. When applicable the order of sequence for buffer reductions shall be as follows:

- a. Use of buffer averaging maintaining one hundred percent of the buffer area under the standard buffer requirement;
- b. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
- c. enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
- d. Infiltration of stormwater where soils permit;
- e. Retention of existing native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.

6. Except as otherwise specified, wetland buffer zones shall be retained in their undisturbed natural condition except where the buffer can be enhanced to improve its functional attributes. Buffers that are in their natural condition should not be altered and should remain in their natural condition and be enhanced whenever possible. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the department. No refuse shall be placed in the buffer. Where buffers have been altered or disturbance has occurred during construction and ecological functions and values have been lost, restoration is required to replace lost functions and values.

7. Permitted Uses in a Wetland Buffer Zone: In addition to those activities allowed in regulated wetlands in this Section, the following activities are allowed in wetland buffers without having to meet the protection standards, or requirements for wetland studies or mitigation set forth in this section, provided that impacts to buffers are minimized and that disturbed areas are immediately restored.

a. In association with a single family residence only, the establishment and expansion of lawns, landscaping, orchards, gardens, and fences, provided that:

i Lawns, landscaping, orchards, and gardens shall be allowed within the outer 25 percent of the buffer width where no reasonable alternative is available. No structure other than fences nor any impervious surface shall be included in the above. No pesticides, herbicides or fertilizers may be used in wetland buffers; and

ii Fences shall be designed to allow the unimpeded passage of surface water beneath them.

b. Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, and scientific or educational activities. Trails within buffers shall be designed to minimize impacts to the wetland, and shall not include any impervious surfaces.

c. Within the buffers of Category III and IV wetlands only, vegetation-lined swales designed for stormwater management or conveyance when topographic restraints determine there are no other upland alternative location. Swales used for detention purposes may only be placed in the outer 25% of the buffer. Conveyance swales may be placed through the buffer, if necessary.

8. Building and Impervious Surface Setback Lines: A building or impervious surface setback line of fifteen (15) feet is required from the edge of any wetland buffer. Minor structural intrusions into the area of the building setback may be allowed if the Director of Community Development determines that such intrusions will not negatively impact the wetland. The setback shall be identified on a site plan which is filed as an attachment to the notice on title required by Subsection 15.24.060C6.

**D. Avoiding Wetland Impacts:**

1. Regulated activities shall not be authorized in a regulated wetland except where it can be demonstrated that the impact is both unavoidable and necessary or that all reasonable economic uses are denied.

2. With respect to Category I wetlands, an applicant must demonstrate that denial of the permit would impose an extraordinary hardship on the part of the applicant brought about by circumstances peculiar to the subject property.

3. With respect to Category II and III wetlands, the following provisions shall apply:

a. For water-dependent activities, unavoidable and necessary impacts can be demonstrated where there are no practicable alternatives which would not involve a wetland or which would not have less adverse impact on a wetland, and would not have other significant adverse environmental consequences.

b. Where nonwater-dependent activities are proposed, it shall be presumed that adverse impacts are avoidable. This presumption may be rebutted upon a demonstration that:

i. the basic project purpose cannot reasonably be accomplished utilizing one or more other sites in the general region that would avoid, or result in less, adverse impact on a regulated wetland; and

ii. a reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs of the project as proposed that would avoid, or result in less, adverse impact on a regulated wetland or its buffer will not accomplish the basic purpose of the project; and

iii. in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made reasonable attempts to remove or accommodate such constraints.

4. With respect to Category IV wetlands, unavoidable and necessary impacts can be demonstrated where the proposed activity is the only reasonable alternative which will accomplish the applicant's objectives.

E. Reasonable Use Exception:

1. If an applicant for a development proposal demonstrates to the satisfaction of the Director of Community Development that application of these standards would deny all reasonable economic use of the property, development as conditioned may be allowed if the applicant also demonstrates all of the following to the satisfaction of the Director of Community Development:

a. that the proposed project is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent but has no practicable alternative, pursuant to Subsection 15.24.070D;

b. that no reasonable use with less impact on the wetland and its buffer is possible (e.g., agriculture, aquaculture, transfer or sale of development rights or credits, sale of open space easements, etc.);

c. that there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to wetlands and wetland buffers;

d. that the proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contours, vegetation, fish and wildlife resources, and hydrological conditions;

e. that disturbance of wetlands has been minimized by locating any necessary alteration in wetland buffers to the extent possible;

f. that the proposed activities will not jeopardize the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the Federal government or the State of Washington;

g. that the proposed activities will not cause significant degradation of groundwater or surface water quality;

h. that the proposed activities comply with all State, local, and Federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

i. that any and all alterations to wetlands and wetland buffers will be mitigated as provided in Subsection 15.24.070H7;

j. that there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and

k. that the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the original effective date of this Chapter.

2. If the Director of Community Development determines that alteration of a wetland and/or wetland buffer is necessary and unavoidable, the Director of Community Development shall set forth in writing in the file he maintains regarding a permit application his findings with respect to each of the items listed in this Subsection.

3. Alternatively, if the Director of Community Development determines that application of these standards would deny all reasonable economic use of the property, the City may take the property for public use with just compensation being made.

F. Minimizing Wetlands Impacts:

1. After it has been determined by the Director of Community Development pursuant to Subsection 15.24.070D that losses of wetland are necessary and unavoidable or that all reasonable economic use has been denied, the applicant shall take deliberate measures to minimize wetland impacts.

2. Minimizing impacts to wetlands shall include but is not limited to:

- a. limiting the degree or magnitude of the regulated activity;
- b. limiting the implementation of the regulated activity;
- c. using appropriate and best available technology;
- d. taking affirmative steps to avoid or reduce impacts;
- e. sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
- f. involving resource agencies early in site planning; and
- g. providing protective measures and best management practices, such as siltation curtains, hay bales, and other siltation prevention measures; scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting, or spawning activities.

G. Limited Density Transfer: For development proposals on lands containing wetland buffers, the Director of Community Development shall determine allowable dwelling units for residential development proposals based on the formulas below.

The following formula for density calculations is designed to provide incentives for the preservation of wetlands and wetland buffers, flexibility in design, and consistent treatment of different types of development proposals. The formula shall apply to all properties within existing residential zones on which wetlands and wetland buffers are located.

The maximum number of dwelling units (DU) for a lot or parcel which contains wetlands and wetland buffers shall be equal to: (Acres in Wetland Buffer)(DU/Acre)(Density Credit).

The density credit figure is derived from the following table:

<u>Percentage of site in buffers</u>	<u>Density Credit</u>
1-10%	100%
11-20%	90%
21-30%	80%
31-40%	70%
41-50%	60%
51-60%	50%
61-70%	40%
71-80%	30%
81-90%	20%
91-99%	10%

The density credit can only be transferred within the development proposal site. To the extent that application of the formula may result in lot sizes less than the minimum allowed by the underlying district, they are hereby authorized, provided that the resultant lot is of sufficient size for an on-site waste disposal system if no sanitary sewer system exists. Should the density credit allow average lot size to fall below the minimum standard allowed by underlying zoning, the applicant shall use Planned Residential Development procedures for project review.

The Director of Community Development shall not allow credit for density for the portions of the site occupied by wetlands.

H. Acting on the Application:1. Special Use Permit Conditions:

a. Sensitive Area Tracts: As a condition of any permit issued pursuant to this Chapter, the permit holder may be required to create a separate sensitive area tract or tracts containing the areas determined to be wetland and/or wetland buffer in field investigations performed pursuant to Subsection 15.24.040C. Sensitive area tracts are legally created tracts containing wetlands and their buffers that shall remain undeveloped in perpetuity. Sensitive area tracts are an integral part of the lot in which they are created; are not intended for sale, lease or transfer; and shall be included in the area of the parent lot for purposes of subdivision method and minimum lot size.

i. Protection of Sensitive Area Tracts: The Director of Community Development shall require, as a condition of any permit issued pursuant to this Chapter, that the sensitive area tract or tracts created pursuant to Subsection 15.24.070H1 be protected by one of the following methods:

a) The permit holder shall convey an irrevocable offer to dedicate to the City of Port Angeles or other public or non-profit entity specified by the Director of Community Development, an easement for the protection of native vegetation within a wetland and/or its buffer; or

b) The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of all lots containing a sensitive area tract or tracts created as a condition of this permit. Such deed restriction(s) shall prohibit in perpetuity the development, alteration, or disturbance of vegetation within the sensitive area tract except for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from the City of Port Angeles, and any other agency with jurisdiction over such activity.

b. The deed restriction shall also contain the following language:  
"Before beginning and during the course of any grading, building construction, or other development activity on a lot or development site subject to this deed restriction, the common boundary between the area subject to the deed restriction and the area of development activity must be fenced or otherwise marked to the satisfaction of the City of Port Angeles."

c. Regardless of the legal method of protection chosen by the Director of Community Development, responsibility for maintaining sensitive area tracts shall be held by a homeowners association, adjacent lot owners, the permit applicant or designee, or other appropriate entity as approved by the Director of Community Development.

d. The following note shall appear on the face of all plats, short plats, PRDs, or other approved site plans containing separate sensitive area tracts, and shall be recorded on the title of record for all affected lots:

**"NOTE:** All lots adjoining separate sensitive area tracts identified as Native Vegetation Protection Easements or protected by deed restriction, are responsible for maintenance and protection of the tracts. Maintenance includes ensuring that no alterations occur within the separate tract and that all vegetation remains undisturbed for other than natural reasons, unless the express written authorization of the City of Port Angeles has been received."

e. The common boundary between a separate sensitive area tract and the adjacent land must be permanently identified. This identification shall include permanent wood or metal signs on treated wood or metal posts. Signs shall be worded as follows:

"Protection of this natural area is in your care. Alteration or disturbance is prohibited by law. Please call the Port Angeles Planning Department for more information."

f. Sign locations and size specifications shall be approved by the Director of Community Development. The Director of Community Development shall require permanent fencing of the sensitive area tract or tracts when there is a substantial likelihood of the presence of domestic grazing animals within the development proposal. The Director of Community Development shall also require as a permit condition that such fencing be provided if, subsequent to approval of the development proposal, domestic grazing animals are in fact introduced.

g. Additional Conditions:

i. The location of the outer extent of the wetland buffer and the areas to be disturbed pursuant to an approved permit shall be marked in the field, and such field marking shall be approved by the Director of Community Development prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

ii. The Director of Community Development may attach such additional conditions to the granting of a special use permit as deemed necessary to assure the preservation and protection of affected wetlands and to assure compliance with the purposes and requirements of this Chapter.

## 2. Bonding:

a. Performance Bonds: The Director of Community Development may require the applicant of a development proposal to post a cash performance bond or other security acceptable to the Director of Community Development in an amount and with surety and conditions sufficient to fulfill the requirements of Subsection 15.24.070H6 and, in addition, to secure compliance with other conditions and limitations set forth in the permit. The amount and the conditions of the bond shall be consistent with the purposes of this Chapter. In the event of a breach of any condition of any such bond, the City of Port Angeles may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. The Director of Community Development shall release the bond upon determining the following, provided that prior to such written release of the bond, the principal or surety cannot be terminated or canceled;

i. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this Chapter;

ii. The posting by the applicant of a maintenance bond has occurred.

b. Maintenance Bonds: The Director of Community Development shall require the holder of a development permit issued pursuant to this Chapter to post a cash performance bond or other security acceptable to the Director of Community Development in an amount and with surety and conditions sufficient to guarantee that structures, improvements, and mitigation required by the permit or by this Chapter perform satisfactorily for a minimum of two (2) years after they have been completed. The Director of Community Development shall release the maintenance bond upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements, and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the permit review process, pursuant to Subsection 15.24.070H7. The maintenance bond applicable to a compensation project shall not be released until the Director of Community Development determines that performance standards established for evaluating the effect and success of the project have been met.

3. Other Laws and Regulations: No permit granted pursuant to this Chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other Federal, State, or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

4. Suspension or Revocation: In addition to other penalties provided for elsewhere, the Director of Community Development may suspend or revoke a permit if he/she finds that the applicant or permittee has not complied with any or all of the conditions or limitations set forth in the permit; has exceeded the scope of work set forth in the permit; or has failed to undertake the project in the manner set forth in the approved application.

5. Publication of Notice: The Director of Community Development shall cause notice of his/her denial, issuance, conditional issuance, revocation, or suspension of a permit to be published in a daily newspaper having a broad circulation in the area wherein the wetland lies. Such notice shall be published within five (5) working days of the decision or order and shall include at least the following:

- a. A brief description of the project, including location;
- b. The decision or order of the City with respect to the project;
- c. Notification that the permit file is open for public inspection during regular business hours, and the address where such file may be inspected; and
- d. A statement of the procedures regarding appeal or judicial review of the decision, if applicable.

6. **Compensating for Wetlands Impacts:** As a condition of any permit allowing alteration of wetlands and/or wetland buffers, or as an enforcement action pursuant to Subsection 15.24.080C, the Director of Community Development shall require that the applicant engage in the restoration, creation, or enhancement of wetlands and their buffers in order to offset the impacts resulting from the applicant's or violator's actions. The applicant shall develop a plan which provides for land acquisition, construction, maintenance, and monitoring of replacement wetlands that recreate as nearly as possible the original wetlands in terms of acreage, function, geographic location and setting, and that are larger than the original wetlands. The overall goal of any compensatory project shall be no net loss of wetlands function and acreage and to strive for a new resource gain in wetlands over present conditions. Compensation shall be completed prior to wetland destruction, where possible.

Compensatory mitigation shall follow an approved mitigation plan pursuant to Subsection 15.24.070H7 and shall meet the following minimum performance standards:

a. Given the uncertainties in scientific knowledge and the need for expertise and monitoring, wetland compensatory projects may be permitted only when the Director of Community Development finds that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces. Additionally, applicants shall:

- i. demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
- ii. demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals; and
- iii. protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation and to provide for long-term persistence of the compensation area.

b. **Wetlands Restoration and Creation:**

i. Any person who alters regulated wetlands shall restore or create equivalent areas or greater areas of wetlands than those altered in order to compensate for wetland losses.

ii. Where feasible, restored or created wetlands shall be a higher category than the altered wetland.

iii. Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining, and projected success. Wetland functions and values shall be calculated using the best professional judgment of a qualified wetland ecologist using the best available techniques. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.

iv. **Acreage replacement ratio.** The following ratios apply to creation or restoration which is in-kind, on-site, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from illegal alterations. The first number specifies the acreage of wetlands requiring replacement and the second specifies the acreage of wetlands altered.

Category I	6:1
Category II or III	
Forested	3:1
Scrub-shrub	2:1
Emergent	1.5:1
Category IV	1.25:1

a) **Increased Replacement Ratio:** The Director of Community Development may increase the ratios under the following circumstances:

- 1) uncertainty as to the probable success of the proposed restoration or creation;
- 2) significant period of time between destruction and replication of wetland functions;
- 3) projected losses in functional value; or

4) off-site compensation.

b) Decreased Replacement Ratio: The Director of Community Development may decrease these ratios based on findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.

c) In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

c. Wetlands Enhancement:

i. Any applicant proposing to alter wetlands may propose to enhance existing significantly degraded wetlands in order to compensate for wetland losses. Applicants proposing to enhance wetlands shall identify how enhancement conforms to the overall goals and requirements of the local wetlands protection program and established regional goals.

ii. A wetlands enhancement compensation project shall be determined pursuant to Subsection 15.24.070H6, provided that enhancement for one function and value will not degrade another function or value and that acreage replacement ratios shall be doubled to recognize existing functional values and, provided further, that Category I wetlands shall not be enhanced.

d. Wetland Type:

i. In-Kind compensation shall be provided except where the applicant can demonstrate that:

a) the wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value;

b) scientific problems, such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or

c) out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types).

d) Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values.

e. Location:

i. On-site compensation shall be provided except where the applicant can demonstrate that:

a) the hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss; and

b) on-site compensation is not scientifically feasible due to problems with hydrology, soils, waves, or other factors; or

c) compensation is not practical due to potentially adverse impact from surrounding land uses; or

d) existing functional values at the site of the proposed restoration are significantly greater than lost wetland functional values; or

e) that established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site.

ii. Off-site compensation shall occur within the same watershed as the wetland loss occurred; provided that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative.

iii. In selecting compensation sites, applicants shall pursue siting in the following order of preference:

a) upland sites which were formerly wetlands;  
 b) idled upland sites generally having bare ground or vegetative cover consisting primarily of exotic introduced species, weeds, or emergent vegetation;  
 c) other disturbed upland.



## f. Timing:

i. Where feasible, compensation projects shall be completed prior to activities that will disturb wetlands, and immediately after activities that will temporarily disturb wetlands. In all other cases, except for Category I wetlands, compensatory projects should be completed prior to use or occupancy of the activity or development which was conditioned upon such compensation. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora.

## g. Cooperative Restoration, Creation, or Enhancement projects:

i. The Director of Community Development may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding from other applicants under the following circumstances:

a) restoration, creation, or enhancement at a particular site may be scientifically difficult or impossible; or  
 b) creation of one or several larger wetlands may be preferable to many small wetlands.

## ii. Persons proposing cooperative compensation projects shall:

a) submit a joint permit application;  
 b) demonstrate compliance with all standards;  
 c) demonstrate the organizational and fiscal capability to act cooperatively; and  
 d) demonstrate that long-term management can and will be provided.

7. Non-Compensatory Enhancement: Non-compensatory enhancements are those wetland enhancement projects which are conducted solely to increase the functions and values of an existing wetland and which are not required to be conducted pursuant to the requirements of Section 15.24.070(H)(6). There are two types of non-compensatory enhancement:

a. Type 1 Non-Compensatory Enhancement. Type 1 non-compensatory enhancement projects involve the filling, draining, or excavating of a regulated wetland. All applications for Type 1 non-compensatory enhancement projects shall be accompanied by an enhancement plan prepared in accordance with subsections (i)a) - b), below, which demonstrates that the proposed activities will result in an increase in wetland functions and values.

(i) The enhancement plan must be submitted for review and approval by the Director of Community Development:

(ii). The enhancement plan must either be prepared by a qualified wetlands consultant or accepted in writing by the U.S. Fish and wildlife Service, and the Washington Department of Fish and Wildlife, or the Washington Department of Ecology.

b. Type 2 Non-Compensatory Enhancement. Type 2 non-compensatory enhancement projects involve wetland alterations that do not include the filling, draining, or excavation of a regulated wetland. Such projects might involve the removal of non-native plant species. All application for Type 2 non-compensatory enhancement projects shall be accompanied by an enhancement plan prepared in accordance with subsections (ii)a) - b), below, which demonstrates that the proposed activities will result in an increase in wetland functions and values.

(i) the enhancement plan shall be submitted for review and approval by the Director of Community Development;

(ii) The enhancement plan must include a detailed description of the activity including the following information:

a) The goal of the enhancement project;  
 b) What plants, if any, will be removed or planted;  
 c) How the activity will be conducted, including the type(s) of tools or machinery to be used; and  
 d) The qualifications of the individual who will be conducting the enhancement activity.

(iii) The enhancement plan must either be prepared by a qualified wetlands consultant or accepted in writing by the U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, or the Washington department of Ecology.

8. Mitigation Plans: All wetland restoration, creation, and/or enhancement projects required pursuant to this Chapter, either as a permit condition or as the result of an enforcement action, shall follow a mitigation plan prepared by qualified wetland professionals approved by the Director of Community Development. The applicant or violator shall receive written approval of the mitigation plan by the Director of Community Development prior to commencement of any wetland restoration, creation, or enhancement activity. Unless the Director of Community Development, in consultation with qualified wetland professionals, determines, based on the size and nature of the development proposal, the nature of the impacted wetland, and the degree of cumulative impacts on the wetland from other development proposals, that the scope and specific requirements of the mitigation plan may be reduced from what is listed below, the mitigation plan shall contain at least the following components:

a. Baseline Information: A written assessment and accompanying maps of the:

i. impacted wetland including, at a minimum, wetland delineation; existing wetland acreage; vegetative, faunal, and hydrologic characteristics; soil and substrate conditions; topographic elevations; and

ii. compensation site, if different from the impacted wetland site, including, at a minimum, existing acreage; vegetative, faunal, and hydrologic conditions; relationship within watershed and to existing waterbodies; soil and substrate conditions; topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.

b. Environmental Goals and Objectives: A written report shall be provided identifying goals and objectives and describing:

i. The purposes of the compensation measures, including a description of site selection criteria; identification of compensation goals; identification of target evaluation species and resource functions; dates for beginning and completion; and a complete description of the structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions and values of the original wetland, or if out-of-kind, the type of wetland to be emulated.

ii. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be provided. An analysis of the likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as surface and ground water supply and flow patterns; dynamics of the wetland ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.

c. Performance Standards: Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

d. **Detailed Construction Plans:** Written specifications and descriptions of compensation techniques shall be provided, including the proposed construction sequence; grading and excavation details; erosion and sediment control features needed for wetland construction and long-term survival; a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

e. **Monitoring Program:** A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:

- i. establishing vegetation plots to track changes in plant species composition and density over time;
- ii. using photo stations to evaluate vegetation community response;
- iii. sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
- iv. measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
- v. measuring sedimentation rates, if applicable; and
- vi. sampling fish and wildlife populations to determine habitat utilization, species abundance, and diversity.

A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

f. **Contingency Plan:** Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

g. **Permit Conditions:** Any compensation project prepared pursuant to this section and approved by the Director of Community Development shall become part of the application for the permit.

h. **Performance Bonds and Demonstration of Competence:** A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standard to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted pursuant to Subsection 15.24.070H in the amount of one hundred twenty (120) percent of the expected cost of compensation.

i. Regulatory authorities are encouraged to consult with and solicit comments of any Federal, State, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes wetlands compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.

j. Compensatory mitigation is not required for regulated activities:  
i. For which a permit has been obtained that occur only in the buffer or expanded buffer and which have no adverse impacts to regulated wetlands; or  
ii. which are allowed pursuant to Subsection 15.24.050B, provided such activities utilize best management practices to protect the functions and values of regulated wetlands.

I. Appeals: Any decision of the Director of Community Development in the administration of this Chapter may be appealed in writing to the City Council within fourteen days of the issuance of notice of the decision. The time period for considering the appeal shall not exceed ninety days.

J. Modification of Wetland Permits: A Wetland Permit holder may request and the Director of Community Development may approve modification of a previously issued Wetland Permit.

K. Resubmittal of Denied Permit Applications: A Wetland Permit application which has been denied may be modified and resubmitted no earlier than one hundred eighty (180) days following action on the original application. A permit application shall be considered a resubmittal if the site proposed for development was the subject of a Wetland Permit application within the previous one hundred eighty (180) days. A new fee will be required for such resubmittal. (Ord. 3179 §4 (part), 12/17/2004; Ord. 3007 §3, 1/15/99; Ord. 2928 (part), 9/13/96; Ord. 2655 §1 (part), 11/29/91.)

#### 15.24.080 - Temporary Emergency Permit - Enforcement.

A. Temporary Emergency Permit: Notwithstanding the provisions of this Chapter or any other laws to the contrary, the Director of Community Development may issue a temporary emergency wetlands permit if:

1. The Director of Community Development determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and

2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this Chapter and other applicable laws.

B. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this act and shall:

1. be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

2. require, within this 90-day period, the restoration of any wetland altered as a result of the emergency activity; except that if more than the 90 days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

Issuance of an emergency permit by the Director of Community Development does not preclude the necessity to obtain necessary approvals from appropriate Federal and State authorities.

Notice of the issuance of the emergency permit and request for public comments shall be published at least once a week on the same day of the week for two consecutive weeks in a newspaper having a general circulation in the City of Port Angeles, the City publication to be no later than 10 days after issuance of the emergency permit.

The emergency permit may be terminated at any time without process upon a determination by the Director of Community Development that the action was not or is no longer necessary to protect human health or the environment.

C. Enforcement:

1. General enforcement: The City of Port Angeles shall have authority to enforce this Chapter, any rule or regulation adopted, and any permit or order issued, pursuant to this Chapter, against any violation or threatened violation thereof. The City of Port Angeles is authorized to issue violation notices and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Chapter, or any rule or regulation adopted, or any permit, permit condition, or order issued pursuant to this Chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator. Enforcement actions shall include Civil Penalties, Administrative Orders and Actions for Damages and Restoration.

2. Injunctive relief: The City of Port Angeles may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of a regulated wetland or their buffers which are inconsistent with this Chapter or an applicable wetlands protection program.

3. Cease and desist order: The City of Port Angeles may serve upon a person a cease and desist order if an activity being undertaken on regulated wetlands or its buffer is in violation of this Chapter or any permit issued to implement this Chapter. Whenever any person violates this Chapter or any permit issued to implement this Chapter, the City of Port Angeles may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom.

Content of Order: The order shall set forth and contain:

(a) A description of the specific nature, extent, and time of violation and the damage or potential damages.

(b) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific correction action to be taken within a given time. A civil penalty may be issued with the order.

(c) Effective date: The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

(d) Compliance: Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

4. Penalties: Any person who undertakes any activity within a regulated wetland or its buffer without first obtaining a permit required by this Chapter, except as allowed in Subsection 15.24.050B, or any person who violates one or more conditions of any permit required by this Chapter or of any order issued pursuant to this Section, shall incur a penalty allowed per violation. In the case of a continuing violation, each permit violation and each day of activity without a required permit shall be a separate and distinct violation. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the environmental impact of the violation. The penalty provided in this subsection shall be appealable to the Superior Court of Clallam County.

5. Aiding or abetting: Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the penalty.

6. Notice of penalty: Civil penalties imposed under this Section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the Department and/or the City of Port Angeles, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary correction action within a specific time.

7. Application for remission or mitigation: Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the Director of Community Development for remission or mitigation of such penalty. Upon receipt of the application, the City of Port Angeles may remit or mitigate the penalty upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

8. Appeals: Orders and penalties issued pursuant to this subsection may be appealed as provided for in Subsection 15.24.070I.

9. Criminal penalties shall be imposed on any person who wilfully or negligently violates this Chapter or who knowingly makes a false statement, representation, or certification in any application, record or other document filed or required to be maintained under this Chapter; or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this Chapter or pursuant to a Wetland Permit. (Ord. 2655 §1 (part), 11/29/91.)

15.24.090 - Non-Conforming Activities. A regulated activity which was approved prior to the passage of this Chapter and to which significant economic resources have been committed pursuant to such approval, but which is not in conformity with the provisions of this Chapter, may be continued subject to the following:

A. No such activity shall be expanded, changed, enlarged, or altered in any way that increases the extent of its non-conformity without a permit issued pursuant to the provisions of this Chapter;

B. Except for cases of discontinuance as part of normal agricultural practices, if a non-conforming activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this Chapter;

C. If a non-conforming use or activity is destroyed by human activities or an act of God, it shall not be resumed except in conformity with the provisions of this Chapter;

D. Activities or adjuncts thereof which are or become public nuisances shall not be entitled to continue as non-conforming activities. (Ord. 2655 §1 (part), 11/29/91.)

15.24.100 - Judicial Review. Any decision or order issued by the City of Port Angeles pursuant to this Chapter, including decisions concerning denial, approval, or conditional approval of a Wetland Permit, may be judicially reviewed in the Clallam County Superior Court, provided that:

A. available administrative remedies, including appeals available pursuant to Subsection 15.24.060I, have been exhausted; and

B. such litigation is commenced within twenty-one (21) days after service of such order or issuance of notice of such decision, as the case may be.

Based on these proceedings and consistent with any decision of the Court that is adverse to the City of Port Angeles, the City may elect to:

1. Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;

2. Approve the permit application with lesser restrictions or conditions; or

3. Other appropriate actions ordered by the Court that fall within the jurisdiction of the City of Port Angeles. (Ord. 2990 §2, 5/15/98; Ord. 2655 §1 (part), 11/29/91.)

15.24.110 - Amendments. These regulations and the maps used to identify wetland critical areas may from time to time be amended in accordance with the procedures and requirements in the general statutes and as new information concerning wetland location, soils, hydrology, flooding, or wetland plants and wildlife become available. (Ord. 2655 §1 (part), 11/29/91.)

15.24.120 - Assessment Relief. The Assessor of Clallam County shall consider wetland regulations in determining the fair market value of land. Any owner of an undeveloped wetland who has dedicated an easement or entered into a perpetual conservation restriction with the City of Port Angeles or a non-profit organization to permanently control some or all regulated activities in the wetland shall have that portion of land assessed consistent with those restrictions. Such landowner shall also be exempted from special assessments on the controlled wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains. (Ord. 2655 §1 (part), 11/29/91.)

Chapter 15.28

CLEARING, GRADING, FILLING, AND DRAINAGE REGULATIONS

Sections:

15.28.010	Purpose.
15.28.020	Definitions.
15.28.030	Clearing and Grading Permit Required.
15.28.040	Permit Exemptions.
15.28.050	Permit Application.
15.28.060	Plans and Specifications.
15.28.070	Additional Application Information.
15.28.080	Review Criteria.
15.28.090	Standards.
15.28.100	Conditions.
15.28.110	Maintenance Responsibilities.
15.28.120	Permit Issuance - Expiration - Extension.
15.28.130	Permit Fees.
15.28.140	Security.
15.28.150	Insurance.
15.28.160	Inspections.
15.28.170	Suspension of Permits.
15.28.180	Completion of Work.
15.28.190	Posting of Permit.
15.28.200	Administration and Enforcement.
15.28.210	Appeals.
15.28.220	Clearing, Grading, Filling, and Drainage Rules and Guidelines.
15.28.230	Other Laws.
15.28.240	Removal of Dirt, Debris, or Other Material - Sanctions.
15.28.250	Public Nuisance.
15.28.260	Penalty.

15.28.010 - Purpose. This Chapter is adopted for the following purposes:

- A. To promote, protect, and preserve the public interest by establishing standards for and regulating land alteration, particularly the clearing, grading, filling, and/or drainage of land in the City without preventing the reasonable use of land;
- B. To regulate land-disturbing activity for control of erosion, sedimentation, stormwater runoff, water pollution, vegetation removal, and landslide in order to minimize damage to public and private property;
- C. To promote building and site planning practices that are consistent with the City's natural topography, soils, and vegetation features and which implement the Port Angeles Comprehensive Plan and the Washington State Environmental Policy Act;
- D. To minimize hazards to life, health, and property;

E. To require that development of environmentally sensitive lands be accomplished in a manner which protects those areas from damage or degradation and which promotes the health, safety, and welfare of the public.

Notwithstanding the above-stated purposes, nothing in this Chapter is intended to or shall be deemed to create a duty of the City to protect or promote the interests of any particular person or class of persons. Further, the existence of these regulations or any failure, refusal, or omission of the City to enforce any provision in this Chapter is not intended to prevent, supplant, or affect the right of any person affected by the clearing, grading, filling, and/or drainage operations of another to invoke such private remedies as may be available against such other persons.(Ord. 2734, §1, 1/15/93)

15.28.020 - Definitions. In addition to definitions contained in Chapter 15.02, the following definitions shall apply. Where definitions exist in both 15.02 and 15.28.020, the definitions in 15.28.020 shall apply.

A. "Accelerated erosion" means any increase over the rate of natural erosion as a result of land-disturbing activity.

B. "Approval" means, for the purposes of this Chapter, approval by the City Engineer.

C. "Buffer zone" means a parcel or strip of land that is required to permanently remain in an undisturbed and untouched condition and within which no building, clearing, grading, or filling is permitted, except for minor maintenance necessary to protect life and property.

D. "Clearing" means the removal of timber, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth's surface on the site or results in the loss of forested areas.

E. "Clearing and Grading Permit" means the written permission of the City to the applicant to proceed with the act of clearing, grading, filling, and/or drainage which could disturb the land surface.

F. "Director" means the Director of Public Works and Utilities or an authorized agent of the Public Works and Utilities Department.

G. "Environmentally Sensitive Land Areas" include, but are not limited to, lands identified as environmentally sensitive areas, locally unique features, or critical areas by the City in accordance with the provisions of the State Environmental Policy Act and the Growth Management Act and Section 15.20 of the Port Angeles Municipal Code.

H. "Filling" means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, natural vegetative covering of soil surface, or fill material (including temporary stockpile of material).

I. "Grading" means any act which changes the grade or elevation of the ground surface and for the purposes of this Chapter also includes the excavation and removal of earth material.

J. "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

K. "Sedimentation" means the process of deposition of soil and organic particles displaced, transported, and deposited by erosive processes. (Ord. 3179 §5 (part), 12/17/2004; Ord. 3071, §3 (part), 12/15/2000; Ord. 2734, §1, 1/15/93)



15.28.030 - Clearing and Grading Permit Required.

A. No person, corporation, or other legal entity shall make changes or cause changes to be made in the surface of any land by clearing, grading, filling, or drainage alteration in the City without having first obtained a valid clearing and grading permit from the City Engineer; except for those activities that are exempt as described in Section 15.28.040.

B. Permits are not transferable, unless approved in writing by the City Engineer. The transfer will only be approved when the new applicant has demonstrated that it can and has complied with the conditions of the permit.(Ord. 3071, §3 (part), 12/15/2000; Ord. 2734, §1, 1/15/93)

15.28.040 - Permit Exemptions. Written permit exemptions shall be issued by the City Engineer. The following shall be exempt from the permit requirements of this Chapter, provided that the exemptions set forth in Subsections G-J shall not apply in situations where properties include environmentally sensitive areas:

A. Land clearing, grading, filling, sandbagging, diking, ditching, or similar work during or after periods of extreme weather or other emergency conditions which have created situations such as flooding or high fire danger that present an immediate danger to life or property;

B. Land clearing necessitated by order of the City Council related to the abatement of a public nuisance, where the work is administered by the City;

C. The removal of dead trees or of diseased or damaged trees which constitute a hazard to life or property as described in 15.28.090G;

D. The clearing by a public agency or a franchised utility within a public right-of-way or upon an easement, for the purpose of installing and maintaining water, storm, sewer, power, cable, or communication lines;

E. Cemetery graves;

F. Non-destructive vegetation trimming with proper removal and disposal of debris.

G. Land that is one acre or less, except where an adjacent area under the same ownership or chain of ownership has been similarly exempted so that the combined area is greater than one acre and erosion control has not been re-established;

H. If a building permit is issued, no additional clearing, grading, or filling permit or associated fee will be required; provided that the standards established in this Chapter and pursuant hereto shall be applied to the issuance of said building permit;

I. Developments larger than one acre in improved areas served by paved streets, curbs, gutters, storm drains, and other drainage facilities;

J. Work, when approved by the City Engineer, in an isolated, self-contained area, if there is no danger to private or public property. (Ord. 3179 §5 (part), 12/17/2004; Ord. 3071, §3 (part), 12/15/2000; Ord. 2734, §1, 1/15/93)

15.28.050 - Permit Application. An application for a clearing and grading permit shall be submitted on a form provided by the City and identifying the property and owner. Other information may be required by the City Engineer to carry out the provisions of this Chapter. (Ord. 2734, §1, 1/15/93)

15.28.060 - Plans and Specifications. Each application shall be accompanied by a minimum of three (3) sets of plans and specifications, including calculations. The plans and specifications shall be prepared by a person familiar with the site. For more complicated sites, the City Engineer may require that the plans and specifications be prepared by an appropriate qualified professional who shall have his/her signature and stamp affixed to each set. The plans and specifications may include the appropriate information from the following:

A. An accurate plan of the entire site as it exists at the time of the application, which includes:

1. All property lines;
2. Contours over the entire site (five-foot contour intervals are standard, but other intervals may be required in specific circumstances);
3. The date, basis, and datum of the contours;
4. A graphic representation of existing vegetation on the site designated by its common names, the amount of bare ground, and the amount and type of impervious material (rock and artificial);
5. The location of all existing drainage facilities, natural and man-made;
6. The location and estimated capacity of any areas which impound surface water;
7. The location and estimated discharge of all visible springs;
8. The location of all structures, utilities, and their appurtenances, including structures and utilities on adjacent properties when such information is reasonably available;
9. Date, north arrow, and adequate scale as approved by the City Engineer on all maps and plans;
10. Identification of and mitigation measures for on-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation.

B. The proposed work schedule, which details the following:

1. Sequence for clearing, grading, filling, drainage alteration, and other land-disturbing activities;
2. On-site soil or earth material storage locations and source of import materials, and location of the site where spoils will be disposed;
3. Schedule for installation and removal of all interim erosion and sediment control measures, including vegetative measures;
4. Schedule for construction of final improvements, if any;
5. Schedule for the installation of required permanent erosion and sediment control devices;
6. An outline of the methods to be used in clearing vegetation and in storing and disposing of the cleared vegetative matter.

C. An accurate finished grading plan of the entire site as it would appear after the completion of work covered by the permit, showing the following:

1. The finished contours achieved by grading (at the same intervals as the existing contours);
2. The boundaries of all areas to remain undisturbed, and identification and the location of all other vegetation shown on the plan that will remain after the completion of work;
3. Drainage and related facilities to be constructed with and as a part of the proposed work;
4. Boundaries of all areas where surface water runoff will be retained, detained, or infiltrated;
5. The method for discharging surface water off-site, including the provisions required to control the velocity and direction of discharge to protect downstream properties;
6. The location of building setback lines, and approximate limits of cuts and fills, including but not limited to foundations, retaining walls, and driveways;
7. Location and dimensions of buffer zones and other areas to be maintained or established;

8. The location and description of proposed erosion and sedimentation control devices or structures and schedule of maintenance;

9. Off-site grading shall be noted on the plans, and a dated letter of permission from the property owner of the land affected shall be provided and noted on the plans.(Ord. 2734, §1, 1/15/93)

15.28.070 - Additional Application Information. The City Engineer may require the applicant to submit additional information when he finds the submitted plans and specifications and associated information are not clear enough to allow for an adequate determination, or when special conditions are found to exist which require specific explanation. This additional information may include, but is not limited to, the following:

A. Hydrologic and hydraulic computations of expected storm runoff entering and leaving the site for pre- and post-development conditions;

B. Engineering geology and soils reports as needed for hydrology, hydraulics, and erosion control design;

C. Erosion and Sediment Control Plan and supporting calculations;

D. An engineer's cost estimate of the drainage facilities and final erosion and sediment control when such information is necessary for bonding purposes;

E. Inspection and maintenance agreement;

F. Letters of Permission: Off-site grading shall be supported by a dated letter of permission from the affected property owner(s);

G. A copy of the Hydraulic Permit Application issued by the Washington State Department of Fisheries, if it is required.(Ord. 2734, §1, 1/15/93)

15.28.080 - Review Criteria. The City Engineer shall review the permit application for compliance with all City ordinances, adopted standards, requested additional data, and Comprehensive Plans.(Ord. 2734, §1, 1/15/93)

15.28.090 - Standards. No land-disturbing activity subject to the control of this Chapter shall be undertaken except in accordance with the following mandatory standards:

A. Protection of property: Persons and entities conducting land-disturbing activities shall take all reasonable measures to protect all public and private property from damage caused by such activities.

B. Wetland buffers: No land-disturbing activity shall be permitted in an approved wetland buffer, except as otherwise allowed by applicable laws and permits.

C. Graded slopes and fills: The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures.

D. Ground cover: No land-disturbing activity shall be undertaken until installation of sufficient erosion and sediment control devices to retain the sediment generated by the activity within the boundaries of the tract during construction upon and development of said tract. Plantings or a permanent ground cover shall be provided immediately after completion of grading to sufficiently restrain erosion.

E. Use of vegetative measures: Vegetation measures using native plants shall be used for erosion and sediment control wherever feasible, rather than structural measures such as pipes, structures, or other devices.

F. Environmentally sensitive areas: Construction within environmentally sensitive areas shall be in compliance with Chapter 15.20 PAMC Environmentally Sensitive Areas Protection Ordinance and shall be subject to the review of the Director of Community Development.

G. Removal of dead or diseased trees from environmentally sensitive areas or buffers is allowed provided that:

1. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester or arborist that documents the hazard and provides a replanting schedule for the replacement trees;
2. Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where limbing or crown thinning is not sufficient to address the hazard, trees should be reduced in height to remove the hazard rather than cut at or near the base of the tree;
3. All vegetation cut (tree stems, branches, tops, etc.) shall be left within the environmentally sensitive area or buffer unless removal is warranted due to the potential for disease transmittal to other healthy vegetation, or the environmentally sensitive area is a steep slope or marine bluff.
4. The landowner shall replace any trees that are felled or topped with new trees at a ratio of two replacement trees for each tree felled or topped (2:1) within one (1) year in accordance with an approved restoration plan. Tree species that are native and indigenous to the site and a minimum caliper of two (2) inches shall be used;
5. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified professional wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
6. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the City of Port Angeles provided that within fourteen (14) days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this Title. (Ord. 3179 §5 (part), 12/17/2004; Ord. 3071, §3 (Part), 12/15/2000; Ord. 2734, §1, 1/15/93)

15.28.100 - Conditions. In granting any clearing and grading permit, the City Engineer may attach the conditions reasonably necessary to prevent erosion and sedimentation. Such conditions may include, but are not limited to, installing walls, swales, drains, retention facilities, or other structures; planting appropriate vegetation; installing erosion and sediment control measures or devices; furnishing necessary letters of permission and/or easements; and specifying method of performing the work. Such items must be identified on the approved grading, erosion, and sediment control or other required plans. In addition, the following shall be conditions of all permits:

- A. Notify the City forty-eight (48) hours before commencing any land-disturbing activity.
- B. Notify the City of completion of any control measures within forty-eight (48) hours after their completion.
- C. Obtain permission in writing from the City prior to modifying any of the plans.
- D. Install all control measures as identified in the approved plans.
- E. Maintain all road drainage systems, stormwater drainage systems, control measures, and other facilities identified in the plans.
- F. Repair siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities.
- G. Inspect the erosion construction control measures at least once each week during construction after each rain of 0.5 inches or more (over a 24-hour period), and immediately make any needed repairs.
- H. Allow the City to enter the site for the purpose of inspecting compliance with the plans or for performing any work necessary to bring the site into compliance with the plans.
- I. Keep an up-to-date, approved copy of the plans on the site.
- J. Ensure that all workmanship and materials are in accordance with City standards and the most recent edition of the Washington State Specifications for Road, Bridge, and Municipal Construction.(Ord. 2734, §1, 1/15/93)

15.28.110 - Maintenance Responsibilities. A maintenance schedule of constructed private facilities shall be developed for facilities constructed and measures implemented pursuant to this Chapter. The schedule shall set forth the maintenance to be completed, the time period for completion, and who shall perform the maintenance. The schedule shall be included with all required plans and permits and shall be recorded by the property owner or agent with the County Auditor so that maintenance responsibilities attach to the property and shall be the duty of the property owner(s).(Ord. 2734, §1, 1/15/93)

15.28.120 - Permit Issuance - Expiration - Extension.

A. A clearing and grading permit shall be issued only after compliance with the requirements of this Chapter and the deposit with the City Treasurer of permit fees for plan review, inspection, and related expenses as required pursuant to PAMC 15.28.130

B. Any permit granted under this Chapter shall expire one (1) year from the date of issuance; provided, however, that the City Engineer may set specific limits to the permit if it is advisable to do so. Upon a showing of good cause, a permit may be extended for one (1) twelve-month period.(Ord. 2734, §1, 1/15/93)

15.28.130 - Permit Fees. There shall be a non-refundable fee as set forth in Chapter 3.70 PAMC in the amount necessary to compensate the City for the expense of reviewing and processing plans, conducting inspections, providing for outside consulting services, and other services determined to be necessary for the administration and enforcement of the provisions of this Chapter. Such fees shall only apply when plans or other documentation are required to be submitted with permit applications for grading and filling or clearing and drainage activity, and no building permit including such activities has been issued. The permit fee shall be paid at the time of submitting plans and other documentation for review. After approval of the plans and specifications, the City Engineer shall provide the applicant with an estimate of the construction inspection fee, based upon the inspections which will be necessary as listed in 15.28.160 PAMC. Such inspection fee shall be separate from the above plan review fees. A permit for construction will be issued only after the deposit of the inspection fee has been made with the City Treasurer. If the City Engineer determines that the remaining funds on deposit are not adequate to pay for the inspections required for project completion, the applicant will be so notified and provided with an estimate of the amount of additional fee deposit required. This additional fee shall be deposited with the City Treasurer prior to depletion of the funds on deposit. Any monies unexpended from the deposit shall be refunded to the depositor upon final completion and acceptance of the project. The basis of the estimate shall be as set forth in Chapter 3.70 PAMC. (Ord. 2932 §37, 10/11/96; Ord. 2734, §1, 1/15/93)

15.28.140 - Security. The City Engineer may require the applicant to furnish security in the form of a bond, cash escrow account, an irrevocable letter of credit, or other security which may be acceptable to the City in its sole discretion, in an amount determined by the City Engineer to be sufficient to reimburse the City if it should be come necessary for the City to enter the property to correct hazardous conditions relating to soil stability, erosion, or environmental damage caused by failure to complete the work or improper action.(Ord. 2734, §1, 1/15/93)

15.28.150 - Insurance. If, in the opinion of the City Engineer, the nature of the work is such that it may create a hazard to human life or endanger streams or public or private property, then the City Engineer may, before issuing the permit, require that the applicant file a certificate of insurance. The certificate must provide to the City satisfactory proof of the existence of a comprehensive liability insurance policy, in an amount and form determined necessary by the City Engineer or the City Attorney, but in no event providing coverage of less than two hundred thousand dollars (\$200,000) for personal injury to any one person, five hundred thousand dollars (\$500,000) for injury to more than one person arising out of the same incident, and one hundred thousand dollars (\$100,000) for property damage, against claims arising pursuant to permits issued under this Chapter, whether the performance be by the applicant, a subcontractor of the applicant, or any person directly or indirectly employed by the applicant. Additional amounts of insurance may be required by the City Engineer in accordance with the nature of the risks involved. Insurance must be written by a company licensed to do business in the State of Washington.(Ord. 2734, §1, 1/15/93)

15.28.160 - Inspections.

A. All projects which include clearing, grading, filling, or drainage shall be subject to inspection by the City Engineer or his designee, who shall be granted reasonable right of entry to the work site by the permittee. When required by the City Engineer, special inspection of the grading operations and special testing shall be performed by qualified professionals employed by the permittee. Inspections in conjunction with Hydraulic Permits will be performed and enforced by the Washington State Department of Fisheries or Wildlife.

B. Each site that has approved grading, erosion and sediment control or other required plans must be inspected as necessary to ensure that the sediment control measures are installed and effectively maintained in compliance with the approved plan and permit requirements. Where applicable, the permittee must obtain inspection by the City at the following stages:

1. Following the installation of sediment control measures or practices and prior to any other land-disturbing activity;
  2. During the construction of sediment basins or stormwater management structures;
  3. During rough grading, including hauling of imported or wasted materials;
  4. Prior to the removal or modification of any sediment control measure or facility;
- and

5. Upon completion of final grading, including establishment of ground covers and planting, installation of all vegetative measures, and all other work in accordance with an approved plan or permit.

C. The permittee may secure the services of an engineer, subject to the approval of the City Engineer, to inspect the construction of the facilities and provide the City with a fully documented certification that all construction is done in accordance with the provisions of an approved, grading, erosion and sedimentation control or other required plan, applicable rules, regulations, permit conditions, and specifications. If inspection certification is provided to the City, then the normal inspections performed by the City for the permit may be waived. In these cases, the City shall be notified at the required inspection points and may make spot inspections.(Ord. 2734, §1, 1/15/93)

15.28.170 - Suspension of Permits. The City Engineer may suspend or revoke a permit or issue a stop work order, whenever he determines that:

A. The act or intended act of clearing, grading, or filling has become or will constitute a hazard to persons; endangers property; adversely affects the safety, use or stability of any public way, drainage facility, stream or surface water, including siltation and sedimentation;

B. The permittee has violated a provision of the permit or of this Chapter or other City ordinances;

C. There are changes in site runoff characteristics upon which a waiver was granted or permit was approved;

D. Construction is not in accordance with the approved plans and specifications;

E. Noncompliance with correction notice(s) or stop work order(s) issued for erosion or sediment controls.(Ord. 2734, §1, 1/15/93)

15.28.180 - Completion of Work.

A. Construction Changes. Whenever changes must be made to the original, approved plan, the changes shall be submitted to and approved by the City Engineer in advance of the construction of those changes.

B. Final Reports. Upon completion of the rough grading and at the final completion of the work, the City Engineer may require the following reports, drawings, and supplements thereto to be prepared and submitted by the owner and/or an appropriate qualified professional approved by the City Engineer:

1. An as-built grading plan, including original ground surface elevations, final surface elevations, lot drainage patterns, and locations and elevations of all surface and subsurface drainage facilities.

2. A soils grading and/or geologic grading report, including locations and elevations of field density tests and geologic features, summaries of field and other laboratory tests, and other substantiating data and comments or any other changes made during grading and their effect on the recommendations made in the approved grading plan.

C. Notification of Completion. The permittee or his/her agent shall notify the City Engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work has been completed in accordance with the final approved grading, erosion and sedimentation control, and other required plans, and the required reports have been submitted and accepted.(Ord. 2734, §1, 1/15/93)

15.28.190 - Posting of Permit. No work shall commence until a permit has been posted by the applicant on the subject site at a conspicuous location. The permit shall remain posted until the project has been completed and final inspection approved.(Ord. 2734, §1, 1/15/93)

15.28.200 - Administration and Enforcement. The City Engineer is authorized and directed to administer and enforce the provisions of this Chapter. For such purpose, he shall have the powers as detailed in PAMC 14.01.060 of a police officer and may appoint and deputize such officers, inspectors, assistants, and other employees as may be necessary to carry out the duties and functions of his office and to provide technical data for plans and on-site follow-up inspections to assure implementation of required plans and specifications; except that enforcement of Hydraulic Permits shall be performed by the Department of Fisheries. (Ord. 2734, 1/15/93)

15.28.210 - Appeals. Any person or persons aggrieved by any action of the City Engineer pursuant to the provisions of this Chapter may file an appeal with the Construction Code Board of Appeals as set forth in Chapter 14.01 PAMC. (Ord. 2734, 1/15/93)

15.28.220 - Clearing and Grading Rules and Guidelines. Clearing and grading and related storm water management and administrative rules and guidelines shall be developed, updated, administered, enforced, and may be appealed in the same manner as the Urban Services Standards and Guidelines as set forth in PAMC 18.08.130. These rules and regulations shall be filed with the City Clerk, and shall be made available to the general public. Such rules and guidelines shall apply to all clearing, grading, filling, and drainage activities in the City, including activities for which permits are required and activities which are exempt from the permit requirements of this Chapter. (Ord. 2885, 9/15/95, Ord. 2734, 1/15/93)

15.28.230 - Other Laws.

A. Whenever conflicts exist between Federal, State, or local laws, ordinances, or rules, the more restrictive provision shall apply.

B. Neither this Chapter nor any administrative decision made under it:

1. Exempts the permittee from procuring other required permits or complying with the requirements and conditions of such a permit; or

2. Limits the right of any person to maintain against the permittee at any time, any appropriate action, at law or in equity, for relief from damages caused by the permittee arising from the permitted activity. (Ord. 2734, 1/15/93)

15.28.240 - Removal of Dirt, Debris, or Other Material; Sanctions.

A. Whenever property damage is occurring or imminent as a result of an activity inconsistent with the purpose and intent of this Chapter, as determined by the City Engineer, the offending person, company, or firm shall, after notice of clean-up by the City Engineer, remove such material or make necessary revisions, as instructed by the City Engineer, to remove the cause of the offending activity.

B. If the person, company, or firm does not take the action ordered by the City Engineer, such offending party shall be guilty of a civil infraction and shall be punished as set forth in Section 15.28.260. In addition, the City Engineer may cause the debris and other materials to be cleaned up and/or the activity altered. All expenses of such work, including the costs of litigation, if necessary, and administrative costs shall be chargeable to the owner or other person having charge of or having ordered the activity. (Ord. 2734, 1/15/93)

15.28.250 - Public Nuisance. Any violation of the provisions of this Chapter is declared to be a public nuisance and may be abated through proceedings for injunction or similar relief in superior court or other court of competent jurisdiction. (Ord. 2734, §1, 1/15/93)

15.28.260 - Penalty. Any person, firm, or corporation, violating any of the provisions of this Chapter, shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued, or permitted. Each such offense shall be punishable by a maximum civil fine of Five Hundred Dollars (\$500). (Cr. by Ord. No. 2734, 1/15/93)